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SUPPLEMENTARY INFORMATION: This document promulgates an interim procedural rule with respect to the issuance of Certificates of Divestiture, which permit the nonrecognition of gain upon the disposition of property to comply with conflicts of interest requirements. Section 1043 of the Internal Revenue Code of 1986 was enacted as part of the Ethics Reform Act of 1989 (Pub. L. 101-194). Pursuant to section 1043, the rule provides that a Certificate of Divestiture with respect to specific property may be issued pursuant to the procedures specified, upon a determination that such divestiture by an executive branch official (or spouse or minor/dependent child thereof) is reasonably necessary to comply with 18 U.S.C. 208, or any other Federal conflict of interest statute, regulation, rule, or executive order, or is requested by a congressional committee as a condition of confirmation, in the case of an "eligible person" as defined in the rule. The rule also defines "permitted property" into which the proceeds from divestitures must be reinvested.

Administrative Procedure Act

Pursuant to sections 553 (b) and (d) of title 5 of the United States Code, the Director of the Office of Government Ethics has found good cause for waiving the general notice of proposed rulemaking and the 30-day delay in effectiveness. As it is essential to the administration of the Executive branch ethics program that these implementing regulations go into effect as soon as possible, the notice and delay in effectiveness are being waived as impractical, unnecessary, and contrary to the public interest. However, these are interim rules with provision for a 60-day comment period. The Office of Government Ethics will review any comments received during the comment period, and consider any modifications to these rules which appear warranted.

E.O. 12291

The Office of Government Ethics has determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it only has an affect with respect to financial interests of Federal employees.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because these regulations do not contain any additional information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501 et seq.

Regulation Identification Number

The Regulation Identification Number (RIN) for this document, 3209-AAO6, is a new number recently assigned to the Office of Government Ethics. The Office of Government Ethics became a separate agency in the Executive branch on October 1, 1989, pursuant to sections 3 and 10 of Public Law 100-598, the Office of Government Ethics' 1989 reauthorization legislation. See, 5 U.S.C. appendix IV, sec. 401. New part 2634 of 5 CFR was recently transferred from the Office of Personnel Management's chapter 1 of 5 CFR part 734, and redesignated as part 2634. Part 2634 was not listed in the most recently published Unified Agenda in the Federal Register (October 30, 1989), but will be in the forthcoming April 1990 agenda.

List of Subjects in 5 CFR Part 2634

Conflict of interests, Government employees.

Approved: April 2, 1990.

Donald E. Campbell,

Acting Director, Office of Government Ethics.

Accordingly, 5 CFR part 2634 is amended as follows:

PART 2634—EXECUTIVE PERSONNEL

FINANCIAL DISCLOSURE

REQUIREMENTS

1. The authority citation for part 2634 is revised to read as follows:


2. Section 2634.303 is amended by adding a new paragraph (h) to read as follows:

§ 2634.303 Special rules.

(h) Certificates of Divestiture. Each report required by the provisions of this subpart shall include a full and complete statement concerning any Certificate of Divestiture which is contemplated or which has been issued during the period.
2634.1004 Special rule.

Subpart J—Certificates of Divestiture

§ 2634.1001 Nonrecognition for sales to comply with conflict of interest requirements; general considerations.

(a) Purpose. This subpart establishes the procedures and policies of the Office of Government Ethics with respect to the issuance of Certificates of Divestiture pursuant to section 1043 of the Internal Revenue Code of 1986 (hereinafter in this subpart referred to as "section 1043").

(b) Scope. Section 1043 and the rules of this subpart provide for nonrecognition of gain in the case of sales to comply with conflict of interest requirements. The rules of this subpart relate to the issuance of Certificates of Divestiture and the permitted property into which a rollover (as such reinvestments are called) must be made in order for nonrecognition to be permitted. The substantive and procedural rules relating to the tax aspects of such sales and rollovers pursuant to the statutory scheme are subject to the jurisdiction of the Internal Revenue Service. Eligible persons should seek the advice of their personal tax advisors for guidance as to the tax aspects of divestiture transactions and whether proposed acquisitions meet the requirements for permitted property. Internal Revenue Service regulations and other guidance should be consulted as to these matters. Internal Revenue Service requirements for reporting dispositions of property and making an election not to recognize gain under section 1043 must be followed by eligible persons wishing to make such an election.

(c) Policy. The Federal purpose reflected in section 1043 of the Internal Revenue Code and these rules is to minimize the burden of Government service resulting from gain on the sale of assets for which divestiture is reasonably necessary because of the conflict of interest laws, in order to attract and retain highly qualified personnel in the executive branch and to ensure the confidence of the public in the integrity of Government officials and decision-making processes.

§ 2634.1002 Issuance of Certificates of Divestiture.

(a) General rule. Pursuant to section 1043, a Certificate of Divestiture with respect to specific property shall be issued by the Director of the Office of Government Ethics pursuant to the procedures of paragraph (b) of this section upon a determination that such divestiture by an eligible person as defined in paragraph (c) of this section is reasonably necessary to comply with 18 U.S.C. 208, or any other Federal conflict of interest statute, regulation, rule, or executive order, or pursuant to the request of a congressional committee as a condition of confirmation.

(b) Procedural requirements—(1) Required submissions. A determination to issue a Certificate of Divestiture may be made by the Director of the Office of Government Ethics only upon the submission by the designated agency ethics official of the agency of employment or proposed employment of the individual referred to in paragraph (c)(1) of this section of full and complete case materials to the Office of Government Ethics. Such case materials shall include:

(i) A copy of the written request from such individual to the designated agency ethics official to pursue certification in the case of the property to be divested;
(ii) In the case of an individual referred to in paragraph (c)(1) of this section who is required by the rules of this part, or part 2833 (subpart D) or part 2833 or this title, to file a financial disclosure report, a copy of the latest report which has been filed;
(iii) A detailed description of the specific property as to which divestiture is contemplated;
(iv) Complete statements of:
(A) The facts and circumstances relevant to whether there is a reasonable necessity for divestiture (including a description of the position or applicable statutory citation setting forth the duties of the subject position); and
(B) Analysis and opinion from such designated agency ethics official concerning the application of the rules of this subpart in the case of the proposed certification; and
(v) In lieu of the materials described in paragraph (b)(1)(iv) of this section, in the case of the contemplated divestiture of specific property pursuant to the request of a congressional committee as a condition of confirmation, such materials shall include the written acknowledgement of the Chairman of such committee of such request.

(2) Standards for issuance. Certification pursuant to the rules of this subpart relates to the reasonable necessity for the divestiture of specific property pursuant to section 1043. Divestiture is one of the standard remedial actions available to comply with conflict of interest statutes, regulations, rules, and executive orders (see § 2634.601(b)(5)), and certification ameliorates the impact of a divestiture. In cases in which the contemplated divestiture is not pursuant to the request of a congressional committee as a condition of confirmation, a Certificate of Divestiture will be issued by the Director of the Office of Government Ethics only if he concurs with the opinion of the designated agency ethics official referred to in paragraph (b)(1)(iv)(B) of this section that such divestiture is reasonably necessary to comply with 18 U.S.C. 208, or any other Federal conflict of interest statute, regulation, rule, or executive order. Issues relating to whether the terms of a contemplated divestiture constitute a sale or other disposition of the property under Internal Revenue Service Rules and other tax matters are under the jurisdiction of the Internal Revenue Service. See § 2634.1001(b).

(3) Documentation of the certification. Certification shall be indicated by a letter from the Director to the eligible party or his representative.

(c) Eligible person. For purposes of section 1043 and this subpart, the term "eligible person" includes:

(1) Any officer or employee of the Executive branch of the Federal government, except a person who is a special Government employee as defined in 18 U.S.C. 202; and
(2) The spouse and any minor or dependent child of an individual referred to in paragraph (c)(1) of this section whose ownership of property required to be divested is attributable to such person by 18 U.S.C. 208, or any other Federal conflict of interest statute, regulation, rule, or executive order.

§ 2634.1003 Permitted property.

(a) In general. The categories of permitted property into which rollovers are permitted to be made have been drawn through the rules of this section so as to be neutral in respect of the vast majority of Federal programs and responsibilities. The Internal Revenue Service has jurisdiction with respect to determinations concerning the application of the rules of this section in specific cases (see § 2634.1001(b)). However, the ethics program rules...
applicable to specific agencies and positions may further limit an eligible person’s choices. The advice of the designated agency ethics official should be sought in this regard. For example, there are restrictions on the purchases of shares in regulated investment companies by some Securities and Exchange Commission personnel and on purchases of obligations of the United States by some officials of the Department of the Treasury. Additionally, it may not be appropriate for some officials of agencies having international responsibilities to invest in mutual funds which exclusively invest in securities outside of the United States.

(b) Definition of “permitted property”. For purposes of section 1043 and this subpart, the term “permitted property” means:

(1) Any obligation of the United States; and
(2) Any “diversified investment fund”, as defined in paragraph (c) of this section.

(c) Diversified investment fund.—(1) Definition. The term “diversified investment fund” means any open-end mutual fund (which is a “regulated investment company”, as defined by section 554(a) of the Internal Revenue Code of 1986), which by its prospectus, or any common trust fund maintained by a bank (which is a “common trust fund”, as defined by section 554(a) of the Internal Revenue Code of 1986), which by the literature it distributes to prospective and current investors describing its objectives and practices, does not indicate the objective or practice of devoting its investments to particular or limited industrial, economic, or geographic sectors.

(2) Ownership limitation. Notwithstanding any other rule of this paragraph (c), a fund may not be considered to be a diversified investment fund in any case in which the ownership of more than one percent of the market value of the fund would be attributable to an individual referred to in § 2634.1002(c)(1) immediately after a rollover.

Example 1: The Alpha Group is a family of funds which markets numerous open-end mutual funds which are typical of those generally available to the general public: (i) The following funds of the Alpha Group would be presumed to be diversified investment funds for purposes of paragraphs (c)(1) of this section, unless their prospectuses indicated an objective or practice of devoting their investments to particular or limited industrial, economic, or geographic sectors: the Common Stock Fund, the Growth Stock Fund, the S&P Index Fund, the Global Fund (investing in common stocks worldwide), the Blue Chip Fund, the Corporate Bond Fund, the Municipal Bond Fund, and the Government Bond Fund (which invests exclusively in obligations of the United States).

(ii) The following funds of the Alpha Group would not be presumed to qualify as diversified investment funds, unless their prospectuses indicated that they do not have an objective or practice of devoting their investments to particular or limited industrial, economic, or geographic sectors for purposes of paragraph (c)(1) of this section: The Pacific fund, the Mexico fund, the Commodity Futures Fund, the Venture Capital Fund, and the Drug Industry Sector Fund.

Example 2: The Omega Fund is a closed-end mutual fund which is listed on the New York Stock Exchange. The Omega Fund is not a diversified investment fund, as only open-end mutual funds are within the definition of that term pursuant to paragraph (c)(1) of this section.

§ 2634.1004 Special rule.

Public access to Certificates of Divestiture. The Certificates of Divestiture issued pursuant to the provisions of this part shall be available to the public in accordance with the rules of § 2634.603 of this part.

[FRDoc. 90-8884 Filed 4-12-90; 8:45 am]

BILLING CODE 6545-01-M

DEPARTMENT OF AGRICULTURE
Agriculture Marketing Service
7 CFR Part 985

[3850-FV-90-116FR]

Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for “Class 3” Native Spearmint Oil for the 1989–90 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service is adopting, without modification, as a final rule the provisions of an interim final rule which increases the quantity of “Class 3” (Native) spearmint oil produced in the Far West that may be purchased from, or handled for, producers by handlers during the 1989–90 marketing year which began June 1, 1989. This action is taken under the marketing order for spearmint oil produced in the Far West to promote orderly marketing conditions and was recommended by the Spearmint Oil Administrative Committee which is responsible for local administration of the order.

EFFECTIVE DATE: April 18, 1990.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, F&V, AMS, USDA, room 2522-S, P.O. Box 96455, Washington, DC 20090–6456; telephone: (202) 475–3820.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 985 [7 CFR part 985], as amended, regulating the marketing of spearmint oil produced in the Far West. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a “non-major” rule under criteria contained therein.

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

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

There are approximately nine handlers of Far West spearmint oil subject to regulation under the spearmint oil marketing order, and approximately 253 spearmint oil producers in the regulated area. Of the 253 producers, 169 producers hold “Class 1” oil (Scotch) allotment base and 136 producers hold “Class 3” oil (Native) allotment base. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having annual receipts for the last three years of less than $300,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of Far West spearmint oil may be classified as small entities.

At its September 21, 1988, meeting, the Spearmint Oil Administrative Committee (Committee) estimated total trade demand for Native spearmint oil for the 1989–90 marketing year to be 818,266 pounds. A desirable carry-out figure of 0 pounds was adopted and, when added to the trade demand, resulted in a total supply needed of 818,266 pounds. The Committee estimated that 40,000 pounds would be carried-in on June 1, 1989. This
amount was deducted from the total supply needed, leaving 778,566 pounds as the salable quantity needed. This quantity, divided by 1,650,743 pounds, the total allotment base, resulted in a figure of 41.8 percent which was the computed allotment percentage. This figure was adjusted to 42 percent and established as the 1989-90 Native allotment percentage which resulted in a 1989-90 salable quantity of 781,092 pounds based on the estimated total base of 1,857,743 pounds.

The salable quantity is the total quantity of a class of oil which handlers may purchase from or handle on behalf of producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage (which is the salable quantity multiplied by 100 divided by the total of all allotment bases) to the producer's allotment base for that class of oil.

The 1989-90 salable percentage of 42 percent for Native oil, when applied to the revised total allotment base of 1,857,007 pounds, gave a 1989-90 salable quantity of 779,943 pounds. Since all growers were expected to either produce their individual salable quantity or fill deficiencies with reserve pool oil, the total salable quantity made available, when this figure was combined with the actual carry-in on June 1, 1989, was 783,139 pounds. This was the total supply available for the 1989-90 marketing year. Carry-in on June 1, 1989, was 9,196 pounds of Native oil, which was lower than the Committee had estimated.

The 1989-90 salable quantity and allotment percentage for Native spearmint oil were issued in a final rule published in the March 8, 1989, issue of the Federal Register [54 FR 9766]. Subsequently, an interim final rule increasing the salable quantity and allotment percentage for Native spearmint oil for the 1989-90 marketing year was published in the September 14, 1989, issue of the Federal Register [54 FR 37932]. That interim final rule increased the 1989-90 salable quantity for Native oil from 781,092 to 891,363 pounds and the allotment percentage from 42 to 48 percent. The increases in the September 14, 1989, interim final rule were adopted without modification in a final rule published in the November 30, 1989, issue of the Federal Register [54 FR 49264]. Those revisions were issued pursuant to §985.52(a) of the spearmint oil marketing order.

This final rule modifies the November 30, 1989, final rule by increasing the salable quantity of Native spearmint oil from 891,363 to 1,277,154 pounds and increasing the allotment percentage from 48 to 92 percent.

At its November 28, 1989, meeting, the Committee unanimously voted to recommend that the Secretary make more Native spearmint oil available to the market by further increasing the salable quantity and allotment percentage. This was due to an increase in market demand at that time. The Committee therefore recommended that the 1989-90 Native spearmint oil salable percentage be increased from 48 to 66 percent resulting in an increase in the salable quantity from 891,364 to 1,107,689 pounds.

An interim final increasing the salable quantity and allotment percentage for Native oil was published in the Federal Register on February 13, 1990 [55 FR 4963]. That rule provided that interested persons could file written comments through March 15, 1990. No comments were received. Accordingly, the salable quantity and allotment percentages as established by that interim final rule are adopted as a final rule without change.

Thus, the Department has determined that an allotment percentage of 92 percent should be established for Native spearmint oil for the 1989-90 marketing year. This percentage will make available 1,283,350 pounds of Far West Native spearmint oil to handlers of Far West spearmint oil.
economic impact on a substantial number of small entities.

After consideration of all relevant matter presented, including that contained in the prior interim and final rules in connection with the establishment of the salable quantity and allotment percentage for Native spearmint oil for the 1989-90 marketing year, the Committee’s recommendation and other available information, it is found that to revise §895.209 [54 FR 9768] so as to change the salable quantity and allotment percentage for Native spearmint oil, as set forth below, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) This final action relieves restrictions on handlers by increasing the quantity of Native oil that may be freely marketed immediately; (2) it should be effective as soon as possible to enable handlers to notify current market needs for Native oil; and (3) this final rule is an adoption, without modification, of an interim final rule which became effective on February 13, 1990, and increased the salable quantity and allotment percentage for the 1989-90 crop year for Native oil.

List of Subjects in 7 CFR Part 985: Marketing agreements, Oils and fats, Reporting and recordkeeping requirements, Spearmint oil.

For the reasons set forth in the preamble, 7 CFR Part 985 is amended as follows:

Note.—This section will not appear in the annual Code of Federal Regulations.

PART 985—MARKETING ORDER REGULATING THE HANDLING OF SPEARMINT OIL PRODUCED IN THE FAR WEST

1. The authority citation for 7 CFR part 985 continues to read as follows:


2. Accordingly, the interim final rule revising §895.209, which was published at 55 FR 4983 on February 13, 1990, is adopted as a final rule without change.


Robert C. Keeney, Acting Director, Fruit and Vegetable Division.

[FR Doc. 90-9000 Filed 4-17-90; 8:45 am]
determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Analysis.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39
Air transportation, Aircraft, Aviation safety, Safety.

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

PART 39—[AMENDED]

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

§ 39.13 [Amended]
2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing of Canada, Ltd., de Havilland Division: Applies to all de Havilland Model DHC-7 series airplanes, certified in any category. Compliance is required as indicated, unless previously accomplished. To prevent possible malfunction of the right main landing gear (MLG), accomplish the following:

A. Within 100 landings after the effective date of this AD, and thereafter at intervals not to exceed 500 landings, conduct a visual inspection of the right MLG frame and attachment bolts, in accordance with paragraph A. of the Accomplishment Instructions in de Havilland Service Bulletin No. 7-24-46. Revision B, dated June 23, 1989.

1. If no damage is found, reasonable parts and return the airplane to service.

2. If damage is found, replace with serviceable parts prior to further flight, in accordance with the service bulletin.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, New York Aircraft Certification Office, ANE-170, FAA, New England Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment and then send it to the Manager, New York Aircraft Certification Office, ANE-170.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing of Canada, Ltd., de Havilland Division, Gerrard Boulevard, Downsview, Ontario M3K 1Y5, Canada. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York. This amendment becomes effective May 29, 1990.

Issued in Seattle, Washington, on April 11, 1990.
Darrell M. Peterson,
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

FOR FURTHER INFORMATION CONTACT:
Mr. Alan T. Shinseki, Aerospace Engineer, Systems and Equipment Branch, ANM-132L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

SUPPLEMENTARY INFORMATION:
A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to McDonnell Douglas Model DC-9-81, DC-9-82, DC-9-83, and DC-9-87 series airplanes and Model MD-80 series airplanes, which requires a one-time inspection and modification of the generator power feeder cable firewall connector installation, was published in the Federal Register on December 19, 1989 (54 FR 51891).

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

The Air Transport Association (ATA) of America, on behalf of its membership, commented that the proposed 12-month compliance period for modification of all generator power feeder cable installations should be extended to 18 months after the effective date of the final rule, since the manhours required to perform the modification appear to have been underestimated and since operators may have difficulty in obtaining modification parts. The FAA disagrees. The airplane manufacturer has advised the FAA that ample required modification parts are readily available. The appropriate number of manhours required to accomplish the required actions, specified as 12 in the economic analysis paragraph, below, was provided to the FAA by the manufacturer based on the best data available to date. This number represents the time required to gain access, remove parts, inspect, modify, install, and close up. The cost analysis in AD rule making actions historically does not include FAA personnel time, as suggested by the commenter. The FAA has also determined that the 12-month compliance requirement is appropriate based on the nature of the unsafe
A final evaluation has been prepared for criteria of the Regulatory Flexibility Act. The number of small entities under the positive or negative, on a substantial not have a significant économie impact, FR 11034; February 26, 1979); and (3) will Regulatory Policies and Procedures (44 this action and is contained in the not a “significant rule” under DOT Federalism Assessment. certify that this action (1) is not a “major to warrant the preparation of a have sufficient federalism implications among the various levels of government. Therefore, in accordance with Executive Order 12812, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. For the reasons discussed above, I certify that this action (1) is not a “major rule” under Executive Order 12291; (2) is not a “significant rule” under DOT. Regulatory Policies and Procedures (44 FR 11034: February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39
Air transportation, Aircraft, Aviation safety, Safety.
Adoption of the Amendment
Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

§ 39.13 [Amended]
2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-81, DC-9-82, DC-9-83, and DC-9-87 series airplanes and Model MD-88 series airplanes of the affected design in the worldwide fleet. It is estimated that 375 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The required parts will be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $180,000.

The regulations adopted herein will 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 12291, 5 U.S.C. 301, and 44 FR 11034; February 26, 1979, the Administrator certifies that this final rule does not have sufficiently significant Federalism implications to require consultation with the Regional Administrators, or to warrant preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action is not a “major rule” under Executive Order 12291; is not a “significant rule” under DOT. Regulatory Policies and Procedures (44 FR 11034: February 26, 1979); and will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39
Air transportation, Aircraft, Aviation safety, Safety.

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

PART 39—[AMENDED]

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

§ 39.13 [Amended]
2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-81, DC-9-82, DC-9-83, and DC-9-87 series airplanes and Model MD-88 airplanes, Fuselage Numbers 909 through 1619, certified in any category. Compliance required within 12 months after the effective date of this airworthiness directive (AD), unless previously accomplished.

To eliminate a potential fire ignition source from the generator power feeder cable installations, accomplish the following:
A. Visually inspect all generator power feeder cable installations at the firewall receptacles for evidence of arcing, burning, or chafing. If damage is found, prior to further flight, replace the damaged feeder cable.
B. Modify each generator power feeder firewall connector installation in accordance with the Accomplishment Instructions of McDonnell Douglas MD-80 Alert Service Bulletin A24-113, dated October 30, 1989.
C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when, approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through and FAA Principal Avionics Inspector (PAI), who will either concur or comment and then send it to the Manager, Los Angeles Aircraft Certification Office.
D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention
SUPPLEMENTARY INFORMATION: In the Federal Register of January 8, 1990 (55 FR 649), FDA proposed to amend the regulation in § 179.26 (c)(4) (21 CFR 179.26(c)(4)) on the use of radiation in the production, processing, and handling of food, to revoke the expiration date for the current wording requirement. This regulation requires that foods that have been irradiated must bear a specified logo prominently and conspicuously in conjunction with the required phrase, "Treated with radiation" or "Treated by irradiation," on the label and labeling of retail packages, or, in some cases, on counter signs or cards (or other appropriate devices). The wording requirements would have expired April 18, 1990, unless this expiration date was changed by notice and comment rulemaking.

1. Comments

FDA received 174 comments on the proposal. Of these, 139 were filed within the comment period, and the rest were filed shortly after the comment period ended on March 9, 1990. Four of the comments did not address the proposed labeling requirement and cannot be considered. Of the rest, all agreed that the current labeling requirement should not be allowed to expire in April 1990, and 167 agreed with FDA's proposal that the requirement for prescribed wording should no longer have an expiration date. The comments that simply agreed with FDA's proposal need not be discussed further.

1. Seventy-two of the 167 comments mentioned above requested that FDA require an explicit statement be included on the label whenever an irradiated ingredient is used in a food that has not been irradiated. These comments are beyond the scope of the proposed rule. Moreover, they seek to have the agency treat foods containing irradiated ingredients differently than it treats foods that contain ingredients processed by other means. In its response to objections on 21 CFR 179.26, issued on December 30, 1988 (53 FR 53176 at 53204), FDA explained the basis for its final decision not to do so. FDA has not received any information that would provide a basis to reconsider that decision.

2. Two comments agreed with FDA's intent to continue the requirement for the prescribed wording but requested an extended expiration date for such a requirement rather than elimination of the expiration date. As discussed in the proposal, FDA has no basis for estimating when the required wording may become unnecessary. These comments did not provide such a basis and are therefore rejected. Should the commenters decide at some point in the future that the required wording has become unnecessary, they can petition the agency to remove this requirement.

3. One comment requested a 45-day extension of the comment period and gave several reasons why it opposed the proposal. The comment did not state what additional information would be provided if the comment period were extended. Therefore, FDA is denying this request to extend the comment period.

The comment stated that it did not support FDA's proposal but added that it did not want the wording requirement to expire either. It gave three reasons for disagreement: (a) The proposal did not require food labels to state when an irradiated ingredient was added to a food that had not been irradiated; (b) the proposal did not state what evaluation criteria FDA would use if it received a petition to eliminate the wording at a later date on the basis that consumers recognized the required logo such that the wording requirement had become unnecessary; and (c) FDA concluded that continuing the current wording requirement would have no significant effect on the human environment. The comment asserted that deletion of the expiration date for the wording requirement would resolve uncertainty about labeling, and that resolution of uncertainty may encourage the food industry to proceed with commercial irradiation of a wide variety of foods.

FDA has addressed the first reason given in the comment to the first comment above. It is not necessary to establish specific criteria that may be needed at some future date to determine whether the wording requirement should be removed. Finally, the possible environmental effects of operating food irradiation facilities were assessed by FDA when it issued regulations permitting irradiation of food. This proposed rule does not change the conditions FDA considered in reaching its earlier decision but merely maintains current regulations for labeling irradiated food. Therefore, FDA concluded that the comment does not provide a basis for changing FDA's proposal to eliminate the expiration date for the wording requirement.

This comment also claimed that the proposed rule was inadequate because neither it, nor FDA regulations, provide for enforcement of labeling requirements. Under section 403(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(a)), a food is misbranded if its labeling is misleading in any particular. Under section 201(n) (21 U.S.C. 321(n)), a label is misleading if it fails to disclose a material fact. Under 21 CFR 179.26(c), the statement that the food has been treated with irradiation is a natural fact that must be disclosed on the food label. Therefore, there is no basis for the claim that additional regulations are needed to enforce labeling requirements.

II. Objections

Any person who will be adversely affected by this regulation may at any time on or before May 18, 1990, file with the Dockets Management Branch (address above) written objections thereeto.

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 state the hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on that 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.

III. Agency Action

In accordance with the Regulatory Flexibility Act and Executive Order 12291, the agency has previously considered the potential effects of specifying the label and labeling requirements for retail packages of irradiated food on small entities, including small businesses. As announced in the proposal, the agency has determined that these labeling requirements would not result in a significant impact.

Because this rule merely deletes an expiration date, the agency has determined, in accordance with section 605(b) of the Regulatory Flexibility Act,
that no significant impact on a substantial number of small entities would derive from this action. Further, in accordance with Executive Order 12291, the agency has determined that this rule is not a major rule as defined by the Order.

The agency has previously considered the environmental effects of this rule as announced in the proposed rule (55 FR 696). No new information or comments have been received that would affect the agency’s previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 179
Food additives, Food labeling, Food packaging, Irradiation of foods, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 179 is amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

1. The authority citation for 21 CFR part 179 continues to read as follows:

§ 179.26 [Amended]
2. Section 179.16 Ionizing radiation for the treatment of food is amended by removing paragraph (c)(4).

Dated: April 12, 1990
Ronald G. Chesemore, Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-9030 Filed 4-13-90; 2:54 pm]
BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE
Department of the Navy
32 CFR Part 706
Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS Miami (SSN–755), USS Asheville (SSN–758), and USS Jefferson City (SSN–759) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special functions as naval submarines. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 27, 1990.


SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has determined that USS Miami (SSN–755), USS Asheville (SSN–758), and USS Jefferson City (SSN–759) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c), pertaining to the arc of visibility of the sternlight; Annex I, section 2(a)(l), pertaining to the height of the masthead light; Annex I, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex I, section 3(b), pertaining to the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessels. The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS Miami (SSN–755), USS Asheville (SSN–758), and USS Jefferson City (SSN–759) are members of the SSN–688 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to USS Miami (SSN–755), USS Asheville (SSN–758), and USS Jefferson City (SSN–759). Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the vessels’ ability to perform their military functions.

List of Subjects in 32 CFR Part 706
Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR part 706 continues to read:

§ 706.2 [Amended]
2. Table one of §706.2 is amended by adding the following vessels:

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<table>
<thead>
<tr>
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<th></th>
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</thead>
<tbody>
<tr>
<td>Vessel</td>
<td>Distance in</td>
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<td>Minimum</td>
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<td></td>
</tr>
<tr>
<td>USS Miami</td>
<td>SSN–755</td>
<td>3.5</td>
<td></td>
</tr>
<tr>
<td>USS Asheville</td>
<td>SSN–758</td>
<td>3.5</td>
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<tr>
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<td>SSN–759</td>
<td>3.5</td>
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3. Table three of §706.2 is amended by adding the following vessels:
### Vessel Specifications

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<th>Vessel</th>
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<th>Masthead lights, arc of visibility: Rule 21(a)</th>
<th>Side lights, arc of visibility: Rule 21(b)</th>
<th>Stern light, arc of visibility: Rule 21(c)</th>
<th>Side lights, distance forward of stern in meters: § 2(k), Annex I</th>
<th>Stern light distance forward of stern in meters: Rule 21(c)</th>
<th>Forward anchor light, height above hull in meters: § 2(2k), Annex I</th>
<th>Anchor lights, relationship of aft light to forward light in meters: § 2(a), Annex I</th>
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<td>SSN-755</td>
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</tr>
<tr>
<td>USS Asheville</td>
<td>SSN-758</td>
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<td>USS Jefferson City</td>
<td>SSN-759</td>
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### Certificate of Exemption

The Department of the Navy, acting as the Judge Advocate General, has determined that USS CHOSIN (CG-65) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the COLREGS requirements. Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner different from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

### Effective Date

March 30, 1990.
DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-90-14]

Special Local Regulations for Marine Events; Blue Angels Airshow; Approaches to Annapolis Harbor, Spa Creek, and Severn River, Annapolis, MD

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Blue Angels airshow and practice sessions to be held on May 26, 27, and 28, 1990, over the Severn River and the approaches to Annapolis Harbor. The effect of these regulations will be to restrict general navigation in the regulated area for the safety of spectators and participants. These regulations are needed to provide for the safety of life, limb, and property on the navigable waters during the event.

EFFECTIVE DATES: The regulations are effective for the following periods:
1:30 p.m. to 5:00 p.m., May 26, 1990.
1:30 p.m. to 5:00 p.m., May 27, 1990.
1:30 p.m. to 5:00 p.m., May 28, 1990.

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-6004 (804) 398-6204.

SUPPLEMENTARY INFORMATION: The Coast Guard published a notice of proposed rulemaking concerning these regulations in the Federal Register on January 31, 1990 (55 FR 3235). Interested persons were requested to submit comments and one comment was received.

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Fifth Coast Guard District, and Lieutenant Steven M. Fitten, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Comments

One comment was received in response to the notice of proposed rulemaking. The comment came from a spectator who was accustomed to anchoring in the cove between Manresa Point and the Old Severn River Bridge during previous Blue Angels Airshows. The comment expressed concern that the regulated area eliminated that body of water from use by the spectator fleet, and suggested that the westward boundary of the regulated area be established at the Old Severn River Bridge. On January 4, 1990 a meeting at Andrews Air Force Base was attended by over fifty people representing several organizations directly involved in the Airshow. The Federal Aviation Administration (FAA) meticulously reviewed all aspects of the Airshow for safety purposes and concluded that the regulated area used in past Airshows allowed small boats to approach too close to center point and the flight path of maneuvering aircraft. Therefore, the westward boundary of the regulated area was moved from the Old Severn River Bridge to a line connecting Horseshoe Point and Manresa Point to ensure the safety of spectator craft.

Discussion of Regulations

The U.S. Naval Academy is sponsoring this event, which will consist of six high performance jet aircraft flying at low altitudes in various formations over the Severn River. Federal Aviation Administration regulations require closing the waterway to vessel traffic as a prerequisite to issuing a permit for this event. Accordingly, the Commander, Fifth Coast Guard District, is issuing these regulations to close a portion of the Severn River to vessel traffic during the airshow and practice sessions. Closure of the waterway for any extended period is not anticipated, and commercial traffic should not be severely disrupted.

Economic Assessment and Certification

These regulations are not considered either major under Executive Order 12291 on Federal Regulation or significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Impact

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and has been placed in the rulemaking docket.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35-0514 is added to read as follows:

§ 100.35-0514 Approaches to Annapolis Harbor, Spa Creek, and Severn River, Annapolis, MD.

(a) Definitions—(1) Regulated area. The approaches to Annapolis Harbor, the waters of Spa Creek, and the Severn River, shore to shore, bounded on the south by a line drawn from Carr Point, at latitude 38°56'56.0" North, longitude 76°27'40.0" West, thence to Horn Point Warning Light (LLNR 17935), at 38°59'24.0" North, longitude 76°28'10.0" West, thence to Horn Point, at 38°58'20.0" North, longitude 76°28'27.0" West, and bounded on the north by a line drawn from Horseshoe Point, at latitude 38°59'47.0" North, longitude 76°29'34.3" West, thence to Manresa Point at latitude 39°00'14.0" North, longitude 76°29'35.0" West.

(b) Special Local Regulations. (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander.
no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the immediate vicinity of this area shall:
(i) Stop the vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(3) Spectator vessels may anchor in the spectator anchorage areas specified in paragraphs [a][4][i] and [a][4][ii] of these regulations.

(4) The Coast Guard Patrol Commander may allow vessels to transit the regulated area whenever a race heat is not being run.

(5) Vessel operators are advised to remain clear of the advisory area during the effective periods of these regulations.

d) **Effective periods:** The regulations are effective for the following periods:

1:30 p.m. to 6:30 p.m., May 26, 1990.
11:30 a.m. to 5:00 p.m., May 27, 1990.
12:30 p.m. to 5:00 p.m., May 28, 1990.

Dated: April 9, 1990.

P.A. Welling,
Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 90-8910 Filed 4-17-90; 8:45 am]

BILLING CODE 4910-14-M

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§100.35-0790 Key West American Powerboat Association Power Boat Race.

(a) **Regulated Area:** All navigable waters in an area bounded by:

1. 24-32-42N Southwest of Fort Taylor. Key West Harbor
2. 24-32-54N Key West Main Channel Buoy 15
3. 24-33-00N Key West Main Channel Buoy 17
4. 24-33-33N Key West Main Channel Buoy 19
5. 24-33-00N Key West Harbor Turning Basin Light 27
6. 24-34-06N Northwest Point Wisteria Island
7. 24-34-30N Fleming Key Front Range Light
8. 24-34-18N Southwest Point Wisteria Key
9. 24-34-03N Northwest Corner Pier D3
10. 24-33-41N Pier House Restaurant
11. 24-34-42N Origin Basin 81-48-33W
12. 24-34-42N Origin Basin 81-48-33W

(b) **Special Local Regulations:**

(1) Entry into the regulated area is prohibited unless authorized by the Patrol Commander.

(2) Spectator boats may observe the race in the designated spectator area west of the following positions:

a) 24-33-40N Key West Main Channel Buoy 17 81-48-33W
b) 24-33-33N Key West Main Channel Buoy 19 81-48-44

(c) **Effective date:** These regulations will become effective on April 28, 1990, at 10 a.m. EDT and terminate on April 26, 1990, at 4 p.m. EDT.

Dated: April 6, 1990.

Martin H. DanieII, Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.
POSTAL SERVICE

39 Part 111

Forwarding/Return Charges for Third-Class Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule adopts a reduction in the factor used in calculating the charge assessed by the Postal Service for the return of a third-class mail piece bearing the endorsement "Forwarding and Return Postage Guaranteed" or "Forwarding and Return Postage Guaranteed, Address Correction Requested." It also makes minor adjustments to the proposed rule published on February 20, 1990. The Postal Service will become effective on April 20, 1990.

FOR FURTHER INFORMATION CONTACT: Virginia Mayes, (202) 268-2661.

SUPPLEMENTARY INFORMATION: In a proposed rule published on February 20, 1990, the Postal Service proposed to change the charge assessed on returned pieces of third-class mail bearing the endorsement "Forwarding and Return Postage Guaranteed" or "Forwarding and Return Postage Guaranteed, Address Correction Requested" from the applicable single-piece rate multiplied by 2.733 to the applicable single-piece rate multiplied by 2.472, 55 FR 3985-86. As explained in the proposed rule, pieces bearing these endorsements are forwarded at no charge. The expense to the Postal Service for forwarding this mail is covered by charges assessed to the mailer only on those pieces which cannot be successfully delivered or forwarded and are returned to the sender. This is accomplished by charging the appropriate single-piece third-class rate for the returned piece plus that rate multiplied by a factor representing the number of pieces of endorsed third-class mail that are successfully forwarded for each one returned.

Accordingly, the Postal Service has determined to adopt as final the proposed rule. The Postal Service will implement the new factor to be used in calculating postage on returned endorsed third-class mail on April 20, 1990. Since the charge will actually reduce the charges assessed mailers, the Postal Service believes that no one will have failed in its study to address a criticism previously offered by that association, that reliance upon the Computer Forwarding System to measure the volume of forwarded and returned pieces would underestimate the volume of returned pieces. As was explained in the Notice of Proposed Rulemaking, however, the data on which the proposed factor is based were not collected through the Computer Forwarding System, but rather at a sample of 2,303 representative delivery units distributed throughout all five postal regions. The underdeliverable-as-addressed endorsed third-class mail was counted at carrier cases, box sections and general delivery sections, and at sample CAG K and L post offices, not a Computer Forwarding Unit. The methodology of the recent survey in fact parallels that of the original study on which the factor currently used was based. Both studies involved data collection at the delivery units as described above; data from the Computer Forwarding System were not used.

Accordingly, the Postal Service has determined to adopt as final the proposed rule. The Postal Service will implement the new factor to be used in calculating postage on returned endorsed third-class mail on April 20, 1990. Since the charge will actually reduce the charges assessed mailers, the Postal Service believes that no one will be prejudiced by an early implementation date, and that it is appropriate to put the charge into effect as expeditiously as possible.

The Postal Service adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1:

List of Subjects in 39 CFR Part 111

Postal service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:


Exhibits 159.151 c-159.151e [Amended]

2. The first sentence of footnote 1 in Exhibits 159.151c, 159.151d, and 159.151e is revised to read as follows:

The weighted fee is the appropriate single-piece third-class rate multiplied by a factor of 2.472.

691 [Forwarding and return]

691.5 [Amended]

3. In 691.5 remove "2.733" and insert in its place "2.471".

A transmittal letter making the changes in the pages of the Domestic Mail Manual will be published and transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the Federal Register as provided by 39 CFR 111.3.

Fred Eggleston,
Assistant General Counsel, Legislative Division.

39 CFR Part 111 [Amended]

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3732-7]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: The USEPA announces approval of a revision to the Illinois State Implementation Plan (SIP) for sulfur dioxide (SO2). The revision establishes a new SO2 emission limit for the Illinois Power Company's Baldwin Power Station. USEPA's action is based upon a revision request which was submitted by the State under section 110(a)(3) of the Clean Air Act (Act).

EFFECTIVE DATE: This final rulemaking becomes effective on May 18, 1990.

ADDRESSES: Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Randolph O. Cano. at (312) 886-6030, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V. Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604
Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62704.

A copy of today’s revision to the Illinois SIP is available for inspection at:
U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION:
On October 28, 1986, the Illinois Environmental Protection Agency submitted a site-specific revision to its sulfur dioxide plan for Illinois Power Company’s [IPC] Baldwin Power Station [Baldwin]. This SIP revision took the form of a September 8, 1983, Final Order of the Illinois Pollution Control Board, FCO 70-7, dated March 20, 1987 (52 FR 9674), in which the EPA determined that Illinois could amend its SIP to revise the Illinois SOx emission limits for Baldwin. The revised SOx emission limitations are 101,966 pounds per hour (lbs/hour), in the aggregate (i.e., emissions from all three stacks combined), and an emission rate not to exceed 6 pounds per million British Thermal Units (lbs/MMBTU) of heat input. The applicable compliance test method is that required by Illinois Rule 204(g)(1), stack test(s) performed in accordance with the procedure published in 40 CFR Part 60, Appendix A, Method 6. These alternative emission limits were adopted by Illinois, pursuant to its Rule 204(e)[2], as a relaxation from the previous Baldwin SOx limit under Rule 204 of 81,339 lbs/hour.

In response to USEPA’s notice of proposed rulemaking, a number of public comments were received regarding the proposed approval of a relaxed SOx emission limit for Baldwin. Today’s rulemaking responds to the public comments received and announces USEPA’s final rulemaking action.

Public Comments

1 Comment: Numerous commenters disputed the modeling “deficiencies” cited by USEPA in the March 26, 1987, notice of proposed rulemaking (NPR) (i.e., incomplete meteorological data base and questionable receptor resolution). The commenters believed that all elements of the modeling analysis used to set the revised emission limitations were consistent with the modeling guidelines in effect at the time the analysis was conducted and with the previously agreed upon modeling protocol. The commenters stated that imposition of the subsequent modeling guidelines would be inappropriate. The State cited USEPA, Region V’s “grandfathering” of the Baldwin analysis.

Response: USEPA reviewed the modeling analysis for the Baldwin Power Station against the “Guideline on Air Quality Models”, April 1978 and “Regional Workshops on Air Quality Modeling: A Summary Report”, April 1981. Pursuant to USEPA’s December 29, 1986 letter to IEPA, USEPA grandfathered the Baldwin analysis from any differing requirements imposed by the “Guidelines on Air Quality Models (Revised)”, July 1986. Relative to these two guideline documents which were in effect when the Baldwin modeling was performed, USEPA maintains that the meteorological data base, as well as the receptor network are incomplete. Nevertheless, USEPA also maintains that correction of these deficiencies would not likely result in a substantial adjustment to the SOx emission limitation. No information was submitted during the public comment period that disputed this statement. Thus, USEPA considers the modeling deficiency issue to be moot.

2 Comment: Two commentors objected to USEPA’s adjustment of the ambient monitored data. The commentors claimed that its adjustment was overconservative, oversimplistic (i.e., ignores physical separation of stacks, neglects differences in plume rise at full load, etc.), and is arbitrary and capricious. In any case, IPC noted that the analysis using this adjustment still showed no violation of the SOx national ambient air quality standards (NAAQS).

Response: USEPA maintains that consideration of the available monitored data is consistent with (and is strongly encouraged by) USEPA’s modeling guidelines. USEPA further maintains that its adjustment of these data is appropriate because of the close proximity and similarity of the three Baldwin stacks, and the availability of concurrent emissions data. As noted in the NPR, while adjusting actual measured data can be difficult, it can be done in certain situations such as Baldwin. (Note, contrary to the commentors’ belief, USEPA did not scale-up the ambient concentrations to reflect full operating load. USEPA only adjusted the constituent units on-line (at the same, actual load) at 6 lbs/MMBTU. Nevertheless, as noted by the commentor, USEPA’s adjustment found no violations of the SOx NAAQS on a block average basis. Thus, the adjusted monitored data support the site-specific SIP revision.

3 Comment: NRDC submitted comments contending that the use of block averages is unlawful. While these comments were submitted sometime after the close of the comment period, USEPA will nevertheless address them here due to the lapse of time since the close of the comment period.

Response: As indicated above, the SIP revision is based on a block interpretation of the SOx national ambient air quality standards under the decision in Natural Resources Defense Council v. Thomas, 845 F.2d at 1088 (D.C. Cir. 1988), the D.C. Circuit determined that a State is free to submit a SIP revision using either block or running averages, and that contrary to NRDC’s contention, “block averages, are a proper practice.” 845 F.2d at 1094. As a result, USEPA finds the use of block averages in this SIP revision to be fully acceptable, and in accordance with the law.

4 Comment: IPC offered a few miscellaneous comments objecting to various statements in the NPR and in USEPA’s Technical Support Document. These comments concerned the purported violation of the 3-hour NAAQS at the Houston monitor and the superiority of the Multiple Point Source Diffusion Model (MPSDM). IPC also provided additional detail on the events leading to the NPR.

Response: USEPA appreciates IPC’s submittal of an enhanced chronology, but disagrees with its comments on the Houston monitoring data and the MPSDM model. Neither of these two issues, however, alters USEPA’s acceptance of the Baldwin modeling analysis.

5 Comment: All commentors noted the site-specific SIP revision for Baldwin was consistent with all applicable regulations and should be approved in final.

Response: USEPA agrees that the SIP revision satisfies the requirements of the Clean Air Act. USEPA, therefore, is approving the SIP revision in final.

Final Rulemaking Action

Based on the information contained in the March 26, 1987 (52 FR 9674) notice of
proposed rulemaking \(^2\) and in consideration of the public comments received, USEPA approves a 10,966 lbs/hour SO\(_2\) emission limit, in the aggregate from all three stacks combined, and an emission limit not to exceed 6 lbs SO\(_2\) MMBTU of heat input for Baldwin. Compliance is to be determined by use of Method 6 stack tests as required by Illinois Rule 204[g](1).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 19, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See 307[b](2).)

List of Subjects in 40 CFR Part 52

Air pollution control. Incorporation by reference, Environmental protection, Sulfur oxide.

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

\(^2\) Pursuant to USEPA’s prevention of significant deterioration (PSD) regulations, SIP relaxations submitted after June 19, 1978 must be evaluated for increment consumption. Increment calculations will generally be based on the difference between the source emissions included in the baseline concentration and the allowable emissions under the revised SIP. Within 50 km of the Baldwin power plant (the normal range for USEPA’s reference models), the only SO\(_2\) baseline date and baseline area is 1977 for eastern Missouri. At the distance to the Illinois-Missouri stateline, the impacts due to Baldwin (based on the difference between baseline actual and proposed allowable emissions) are generally less than 10-15% of the total increment. (Beyond this distance, predicted impacts are even less.) This potential increase will not interfere with attainment of the PSD increments. Consequently, the revised emission limitation for Baldwin is in compliance with the PSD regulations.

The stack height requirements of section 123 of the Clean Air Act also do not apply, because two of Baldwin’s stacks were in existence prior to December 31, 1970 (see State’s April 8, 1986, submittal); and the third stack does not exceed the applicable Good Engineering Practice (GEP) formula height (see State’s July 17, 1986, submittal).

Finally, this SIP revision will have a minimal interstate impact on any other State’s ambient SO\(_2\) level, because: (1) it is 35 kilometers from the nearest State boundary, Missouri and there are no SO\(_2\) nonattainment areas within 50 kilometers; and (2) the modeling shows that the maximum concentration due to Baldwin occurs in the vicinity of the plant, and decreasing concentrations in the direction of Missouri. (The usual distance to which applicable models are considered accurate is 50 kilometers.)

Dated: March 5, 1990.

William K. Reilly,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Effective Date: This regulation becomes effective April 18, 1990.

ADRESSES: Written objections, identified by the document control number, [PPPF3745/R1065], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3718, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: George T. LaRocco, Product Manager (PM) 15, Registration Division (H705C), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2400.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 23, 1969 (54 FR 12010), EPA issued a notice which announced that Zoecon Corp., a Sandoz Company, 12005 Ford Rd., Suite 800, LB 44, Dallas, TX 75234-7296, had submitted pesticide petition 93745 proposing to amend 40 CFR 180.427 by establishing a tolerance for residues of [alpha RS, 2R]-4-(trifluoromethyl) anilino-[3-phenoxybenzyl (R)-2-[2-chloro-4-( trifluoromethyl) anilino]-3-methylbutanoate] in or on the raw agricultural commodities beeswax and honey at 0.1 part per million (ppm). The petition was subsequently amended in the Federal Register of January 9, 1990 (55 FR 790), by deleting the proposed tolerance for beeswax and decreasing the tolerance for honey to 0.05 ppm.

There were no comments received in response to the notices. The data submitted in the petition and other relevant material have been evaluated. The toxicology data listed below were considered in support of these tolerances.

1. An acute oral rat toxicity study with a median lethal dose (LD\(_{50}\)) of 282 milligrams (mg)/kilogram (kg) for males and 261 mg/kg for females.

2. A 90-day rat and mouse feeding study with a no-observed-effect level (NOEL) of 3.0 mg/kg/day for both rats and mice.

3. A 180-day dog feeding study with a NOEL of 5.0 mg/kg/day.

4. A 21-day hen delayed neurotoxicity study with a NOEL of 20,000 mg/kg/day, the highest dose tested (HDT).

5. A 24-month mouse feeding/ carcinogenicity study that resulted in a systemic NOEL of 10 mg/kg/day in which no carcinogenic effects were noted at dosage levels of 2, 10, and 20 mg/kg/day (20 mg/kg/day being the HDT) under the conditions of the study.

The Illinois Environmental Protection Agency submitted a site-specific revision to Illinois’ sulfur dioxide plan for Illinois Power Company’s Baldwin Power Station. The revised SO\(_2\) emission limitations are 101,966 lbs/hour, in the aggregate, and 6 lbs/MMBTU.

Pesticide Tolerance for [alpha RS, 2R]-Fluvalinate ([RS]-Alpha-Cyano-3-Phenoxybenzyl (R)-2-[2-Chloro-4-(Trifluoromethyl) Anilino]-3-Methylbutanoate)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide [alpha RS, 2R]-fluvalinate ([RS]-alpha-cyano-3-phenoxymethyl benzyl (R)-2-[2-chloro-4-(trifluoromethyl) anilino]-3-methylbutanoate) in or on the raw agricultural commodity honey. This regulation to establish the maximum permissible level for residues of the insecticide was requested by the Zoecon Corp.

Effective Date: This regulation becomes effective April 18, 1990.

Address: Written objections, identified by the document control number, [PPPF3745/R1065], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3718, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: George T. LaRocco, Product Manager (PM) 15, Registration Division (H705C), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2400.

Supplementary Information: In the Federal Register of March 23, 1969 (54 FR 12010), EPA issued a notice which announced that Zoecon Corp., a Sandoz Company, 12005 Ford Rd., Suite 800, LB 44, Dallas, TX 75234-7296, had submitted pesticide petition 93745 proposing to amend 40 CFR 180.427 by establishing a tolerance for residues of [alpha RS, 2R]-fluvalinate ([RS]-alpha-cyano-3-phenoxymethyl benzyl (R)-2-[2-chloro-4-(trifluoromethyl) anilino]-3-methylbutanoate) in or on the raw agricultural commodities beeswax and honey at 0.1 part per million (ppm). The petition was subsequently amended in the Federal Register of January 9, 1990 (55 FR 790), by deleting the proposed tolerance for beeswax and decreasing the tolerance for honey to 0.05 ppm.

There were no comments received in response to the notices. The data submitted in the petition and other relevant material have been evaluated. The toxicology data listed below were considered in support of these tolerances.

1. An acute oral rat toxicity study with a median lethal dose (LD\(_{50}\)) of 282 milligrams (mg)/kilogram (kg) for males and 261 mg/kg for females.

2. A 90-day rat and mouse feeding study with a no-observed-effect level (NOEL) of 3.0 mg/kg/day for both rats and mice.

3. A 180-day dog feeding study with a NOEL of 5.0 mg/kg/day.

4. A 21-day hen delayed neurotoxicity study with a NOEL of 20,000 mg/kg/day, the highest dose tested (HDT).

5. A 24-month mouse feeding/ carcinogenicity study that resulted in a systemic NOEL of 10 mg/kg/day in which no carcinogenic effects were noted at dosage levels of 2, 10, and 20 mg/kg/day (20 mg/kg/day being the HDT) under the conditions of the study.
6. A 24-month rat feeding/carcinogenicity study with a NOEL of 1.0 mg/kg/day for systemic effects with no carcinogenic effects noted under the conditions of the study, at dosage levels of 0.25, 0.5, 1.0, and 2.5 mg/kg/day (HDT).

7. A two-generation rat reproduction study with a NOEL of 20.0 ppm (1.0 mg/kg/day).

8. Developmental toxicity studies (in rats and rabbits), with a NOEL of 10.0 mg/kg (HDT) for developmental toxicity in rats and a NOEL for developmental toxicity of 125.0 mg/kg in rabbits.

9. The following mutagenic studies:
   a. Ames Salmonella microsome testing;
   b. Sister chromatid exchange;
   c. Mouse lymphoma;
   d. Unscheduled DNA synthesis; and
   e. Cell transformation.

All of the mutagenicity studies were negative except for the mouse lymphoma study and one of the six Ames tests, which were positive with metabolic activation but negative without metabolic activation.

The acceptable daily intake (ADI) is calculated to be 0.01 mg/kg body weight (bw) per day based on a 2-year rat feeding study and using a hundredfold safety factor. Published tolerances result in a theoretical maximum residue contribution (TMRC) of 0.000160 mg/kg bw/day and utilize 1.6 percent of the ADI. Approval of the tolerance for honey would increase the percentage of the ADI used by less than 0.01 percent with a TMRC of 0.000161 mg/kg bw/day.

The pesticide is useful for the purposes for which the tolerance is sought. The nature of the residue is adequately understood for this purpose. Adequate analytical methodology, gas chromatography, is available for enforcement purposes. There are currently no regulatory actions pending against the registration of this pesticide, and there are no other relevant considerations in establishing this tolerance.

Because of the long lead time from establishing this tolerance to publication of the enforcement methodology in the Pesticide Analytical Manual II, an interlaboratory methods package is being made available to State pesticide enforcement chemists when requested from: By mail, Calvin Furlow, Public Information Branch, Field Operations Division (H5000), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 242, CM No. 2, 1921

Jefferson Davis Hwy., Arlington, VA 22202, (703) 557-4432.

Based on the information cited above, the Agency has determined that establishing tolerances for residues of the pesticide in or on honey will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objection with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950)

List of Subjects in 40 CFR Part 180

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:


2. In §180.427(a) in the table therein, by adding and alphabetically inserting the commodity, to read as follows:

<table>
<thead>
<tr>
<th>Commodity</th>
<th>Parts per million</th>
</tr>
</thead>
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<tr>
<td>Honey</td>
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[FR Doc. 90-9010 Filed 4-17-90; 8:45 am]
BILLING CODE 6560-50-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6776

[OR-943-00-4214-10; GP9-246; OR-42920 (WASH)]

Withdrawal of National Forest System Lands for the North Cascades Scenic Highway Zone; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 8,958 acres of National Forest System lands from mining for 20 years for the Forest Service to protect the North Cascades Scenic Highway Zone. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: April 18, 1990.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon, 97208, 503-231-0905.

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 National Forest System lands are hereby withdrawn from location or entry under the United States mining laws (30 U.S.C. ch. 2), but not from leasing under the mineral leasing laws, to protect the North Cascades Scenic Highway Zone:

Willamette Meridian

Mt. Baker, Okanogan, and Wenatchee National Forests

A strip of land of varying widths of from 200 to 2,000 feet on each side of and running parallel and concentric with the monumented centerline of State Highway 20 through the following described townships and sections as more particularly identified and described below:

T. 37 N., R. 14 E., unsurveyed, Secs. 10, 11, 12, and 13.
Federal Register / Vol. 55, No. 75 / Wednesday, April 18, 1990 / Rules and Regulations

T. 36 N., R. 16 E., unsurveyed, Secs. 3, 4, 10, 11, 14, 15, 23, 24, 25, and 36.
T. 37 N., R. 16 E., unsurveyed, Secs. 17, 19, 20, 21, 22, 27, 28, 29, 30, 32, and 33.
T. 35 N., R. 17 E., unsurveyed, Secs. 5, 6, 7, 8, 13, 16, 17, 21 to 28, inclusive, and 35.
T. 36 N., R. 17 E., unsurveyed, Secs. 5, 8, 17, 18, 19, 20.
T. 36 N., R. 18 E., unsurveyed, Secs. 21 to 28, inclusive, 32, and 33.
T. 36 N., R. 19 E., unsurveyed, Secs. 19, 20, 22, 27, 28, 29, 30, 32, and 33.

Beginning at a 3-inch brass cap set in the center of State Highway No. 20, marked X PC-757 + 43.43, located in the NE1/4NW1/4, SE1/4 of Sec. 10 of unsurveyed T. 37 N., R. 18 E., W.M., thence along the centerline of State Highway No. 20 to the intersection with the administrative boundary between the Ross Lake National Recreation Area and the Mt. Baker National Forest, said point of intersection being the true point of beginning of said strip of land.

Thence from the aforementioned true point of beginning to a brass cap monument marked 1382 + 26.05, set in the centerline of State Highway 20 (about 300 feet northerly along said highway from the Esey Pass trailhead entrance), the said strip of land being 2,000 feet in width, 1,000 feet of which lies on each side of, running parallel and concentric with, the monumented centerline of said highway, except that 1,600 feet width shall not include any land that lies right of the monumented centerline of said highway.

Thence from a brass cap monument marked 1906 + 42.21, set in the centerline of said highway, to a brass cap monument marked 2098 + 97.80, set in the centerline of said highway (about 300 feet southerly along said highway from its intersection with the Cutthroat Creek trailhead entrance), the said strip of land being 2,000 feet in width, 1,000 feet of which lies left and 200 feet which lies right of, running parallel and concentric with, the monumented centerline of said highway.

Thence from a brass cap monument marked 2098 + 97.80, set in the centerline of said highway, to a brass cap monument marked 2536 + 76.24 (about 540 feet east of Varden Creek), the said strip of land being 2,000 feet in width, 1,000 feet of which lies on each side of, running parallel and concentric with, the monumented centerline of said highway.

Thence from a brass cap monument marked 2536 + 76.24, set in the centerline of said highway, to a brass cap monument marked 2838 + 76.24, set in the centerline of said highway, to a brass cap monument marked 2843 + 84.09, set in the centerline of said highway (about 540 feet east of the Klip Chuck campground entrance), the said strip of land being 2,000 feet in width, 2,000 feet of which lies left and 200 feet of which lies right of, running parallel and concentric with, the monumented centerline of said highway.

Thence from a brass cap monument marked 2843 + 84.09, set in the centerline of said highway, to a point where said highway centerline intersects the westerly boundary of Homestead Entry Survey No. 89 between Corner Nos. 4 and 5 and bears S. 4° 10' W., a distance of 1,240.23 feet more or less, from Corner No. 5 of Homestead Entry Survey No. 89, the said strip of land being 2,000 feet in width, 1,000 feet of which lies on each side of, running parallel and concentric with the monumented centerline of said highway. The westerly boundary of Homestead Entry Survey No. 89 is the easterly end line of said strip of land, and said easterly end line shall be lengthened and/or shortened so as to be coincident with the northerly and southerly extension of the westerly boundary of Homestead Entry Survey No. 89.

The areas described aggregate, after making the aforesaid exceptions, approximately 8,950 acres in Chelan, Okanogan, Skagit, and Whatcom Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 264(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary of the Interior determines that the withdrawal shall be extended.


Dave O'Neal,
Assistant Secretary of the Interior.

[FR Doc. 90-8943 Filed 4-17-90; 4:45 am]
BILLING CODE 4310-33-M
Proposed Rules

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 THE TREASURY
Office of the Comptroller of the Currency

12 CFR Part 21
[Docket No. 90-7]

Minimum Security Devices and Procedures, Reports of Crimes and Suspected Crimes and Bank Secrecy Compliance

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency ("OCC"). In conjunction with the other Federal banking agencies, has reviewed 12 CFR part 21—Minimum Security Devices And Procedures, Reports of Crimes And Suspected Crimes And Bank Secrecy Compliance—and has determined that the regulation should be revised to reflect changes in the technology of security devices and to implement changes required by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"). The proposed revisions to part 21 are intended to serve the dual purpose of incorporating the amendments made to the Bank Protection Act of 1968 by FIRREA and provide depository institutions with the technical obsolescence that have occurred with the existing regulation.

DATES: Comments must be received by June 18, 1990.

ADDRESSES: Comments should be directed to: Communications Division, 5th Floor, 490 L'Enfant Plaza East, SW., Washington, DC 20219. Attention: Docket No. 90-7. Comments will be available for public inspection and photocopying at the same location.


On January 16, 1969 (34 FR 612), the Federal banking agencies adopted a uniform regulation to implement the Act. Aside from certain nonsubstantive amendments over the years, the regulation has remained largely unchanged since its adoption. Much of the information contained in the appendices addressing specific security devices has become obsolete. For example, the requirements for surveillance systems states that the film used in the camera should be capable of operating not less than three minutes and the film should be at least 16mm. Today most banks use continuous video cameras in their surveillance systems.

Consequently, the OCC is proposing to delete references to specific security devices which, due to technological advances, are likely to become obsolete. By avoiding an overly detailed description of required security devices, the OCC hopes to avoid frequent updates of the list of required security devices. The OCC's more flexible approach requires each bank to consider when selecting additional security devices. The OCC's more flexible approach requires each bank to consider when selecting additional security devices.

To ensure that a bank's security program is reviewed on a regular basis for effectiveness, the proposed regulation requires the security officer to biennially file a report on the security program with the bank's board of directors. This provision is in response to the recent FIRREA amendment to the Bank Protection Act which abolished the requirement in the Act that banks submit periodic reports on security devices and procedures to their regulator. See Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. 101-73, section 911, 103 Stat. 183 (1989).

A section-by-section analysis of the proposed changes to part 21 follows:

Section 21.0—Purpose and Scope of Subpart A

This section has been rewritten as new § 21.1. The section now emphasizes the responsibility of a bank's board of directors to ensure that the bank adopts and maintains a security program which equals or exceeds the standards prescribed by this part.

Section 21.1—Definitions

The "Definitions" section has been eliminated. Any definition needed appears where the defined word is first used.

Section 21.2—Designation of Security Officer

The OCC is proposing only minor changes to this section.

Section 21.3—Security Devices

Paragraph (a)—The requirement for the security officer to survey the need for security devices is contained in the new § 21.3. The required minimum security devices for each bank set forth in the existing § 21.3(a)(1)-(4) are now set forth in the new § 21.3(b)(1)-(5). Added to the list is a requirement for a secure space to protect cash or other liquid assets.

Paragraph (b)—This paragraph has been reworded and placed in the new § 21.3(b)(5)(i)-(vi).

Paragraph (c)—The current provision allowing a bank to preserve a statement indicating the reasons for not installing certain security devices called for by appendix A is unnecessary and would be removed under this proposal.

Section 21.4—Security Procedures

Paragraph (a)—The implementation requirements are incorporated in the new § 21.2.

Paragraph (b)—This paragraph is revised to combine similar functions and is incorporated in the new § 21.3.

Section 21.5—Filing of Reports

Paragraph (a)—The requirement for filing biennial reports with the appropriate district Deputy Comptroller has been changed to require the security officer to report at least biennially to the bank's board of directors on the effectiveness of the security program. This requirement is incorporated in the new § 21.4.

Paragraph (b)—The requirement of recordkeeping of external crimes is now a suggested procedure under § 21.3(a)(2).

Paragraph (c)—The requirement for special reports whenever requested is removed as unnecessary because the OCC may obtain such reports through its regular supervisory powers.

Section 21.6—Corrective Action

This section has been eliminated. The OCC can require corrective action under its supervisory authority to prevent unsafe and unsound practices.

Section 21.7—Penalty Provision

This section has been eliminated as unnecessary because it is contained in the statute and need not be repeated in the regulation.

Subpart B—Reports of Crimes and Suspected Crimes

Section 21.11—Reports of Crimes and Suspected Crimes

Paragraph (f)(1) of § 21.11 has been amended to reference the new § 21.3.

Subpart C—Procedures for Monitoring Bank Secrecy Act Compliance

This section remains unchanged.

Appendix A and B

Both appendices have been removed. appendix A is obsolete. appendix B concerns actions to be taken by employees in the event of a robbery. The appendix has been removed because it is included in the list of suggested procedures required under § 21.3(a).

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Comptroller of the Currency certifies that these changes, if adopted, will not have a substantial economic impact on a significant number of small entities. Accordingly, a Regulatory Flexibility Analysis is not required. Small entities are already required to comply with the security standards established in the existing regulation. The proposal would afford small entities greater flexibility in developing security programs, which should help to minimize existing costs to such entities. Requiring that reports be given to the bank's board of directors, rather than to the regulator, should also ease the regulatory burden on small entities.

Executive Order 12281

Since banks are already required to have a security program in place, the OCC has determined that this proposal does not constitute a major rule within the meaning of Executive Order 12281 and therefore does not require a Regulatory Impact Analysis. The proposed rulemaking will not have an annual impact on the economy of $100 million or more; would not result in a major increase in the cost of bank operations or government supervision; nor would it have a significant adverse effect on competition, employment, investment, productivity, or innovation.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3504(n)). Comments on the collection of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1557-0072), Washington, DC 20503, with copies to the Office of the Comptroller of the Currency at the address previously specified.

The collections of information in this regulation are in 12 CFR 21.2 and 21.4. This information will be used by a national bank's board of directors in assessing the effectiveness of the bank's security program. The OCC will review this information to assure that national banks carefully monitor their security program and comply with federal law. The likely respondents are national banks.

Estimated total annual reporting burden: 525 burden hours.

This proposal, if adopted as a final rule, will reduce the burden by an estimated 673 hours. This reduction in burden is a result of asking only that a report on the effectiveness of the security program be presented to the bank's board of directors, in lieu of reporting to the OCC.

Estimated number of respondents: 2,100.

Estimated annual frequency of response: 1.

List of Subjects in 12 CFR Part 21

National banks, Banking, Bank protection, Security devices, Reports.

Authority and Issuance

For the reasons set forth in the preamble, part 21 of chapter 1 of title 12 of the Code of Federal Regulations is proposed to be amended as set forth below:

PART 21—MINIMUM SECURITY DEVICES AND PROCEDURES, REPORTS OF CRIMES AND SUSPECTED CRIMES AND BANK SECURCY COMPLIANCE

1. The authority citation for part 21 continues to read as follows:

Authority: 12 U.S.C. 1 et seq., 38a, 1818, as amended, 1851–1864, 31 U.S.C. 5511 et seq., in accordance with the

2. The table of contents for part 21 is revised as follows:
Subpart A—Minimum Security Devices and Procedures
Sec.
21.1 Purpose and scope of subpart A.
21.2 Designation of security officer.
21.3 Security program.
21.4 Report.
Subpart B—Reports of Crimes and Suspected Crimes
21.11 Reports of crimes and suspected crimes.
Subpart C—Procedures for Monitoring Bank Secrecy Act Compliance
21.21 Bank Secrecy Act compliance.

2. Subpart A is revised as follows:

§ 21.1 Purpose and scope of subpart A.
(a) This regulation is issued by the Comptroller of the Currency pursuant to section 3 of the Bank Protection Act of 1968 (12 U.S.C. 1862) and is applicable to all national banking associations and banks located in the District of Columbia subject to the supervision of the Office of the Comptroller of the Currency. It requires each bank to adopt appropriate security procedures to discourage robberies, burglaries, and larcenies and to assist in identifying and apprehending persons who commit such acts.

(b) It is the responsibility of a bank’s board of directors to comply with this regulation and ensure that a security program for the bank’s main office and branches (as the term “branch” is used in 12 U.S.C. 36) is developed and implemented which equals or exceeds the standards prescribed by this part.

§ 21.2 Designation of security officer.
Within 30 days after the opening of a new bank, the bank’s board of directors shall designate a security officer who shall have the authority, subject to the approval of the board of directors, for immediately developing and administering a written security program, to protect each banking office from robberies, burglaries, and larcenies and to assist in identifying and apprehending persons who commit such acts.

§ 21.3 Security program.
(a) Contents of security program. The security program shall:

(1) Establish procedures for opening and closing for business and for the safekeeping of all currency, negotiable securities, and similar valuables at all times;

(2) Establish procedures that will assist in identifying persons committing crimes against the institution and that will preserve evidence that may aid in their identification or conviction; such procedures may include, but are not limited to:

(i) Retaining a record of any robbery or burglary committed or attempted against a banking office;

(ii) maintaining a camera that records activity in the banking office; and

(iii) using identification devices, such as bait money, dye packs or electronic tracking devices;

(3) Provide for initial and periodic training of employees in their responsibilities under the security program and in proper employee conduct during and after a robbery; and

(4) Provide for selecting, testing, operating and maintaining appropriate security devices, as specified in paragraph (b) of this section.

(b) Security devices. Each national bank shall have, at a minimum, the following security devices:

(1) A means of protecting cash or other liquid assets, such as a vault, safe, or other secure space;

(2) A lighting system for illuminating, during the hours of darkness, the area around the vault, if the vault is visible from outside the banking office;

(3) An alarm system or other appropriate device for promptly notifying the nearest responsible law enforcement officers of an attempted or perpetrated robbery or burglary;

(4) Tamper-resistant locks on exterior doors and exterior windows designed to be opened; and

(5) Such other devices as the security officer determines to be appropriate, taking into consideration:

(i) The incidence of crimes against financial institutions in the area;

(ii) The amount of currency or other valuables exposed to robbery, burglary, and larceny;

(iii) The distance of the banking office from the nearest responsible law enforcement officers and the time required for such law enforcement officers to arrive at the banking office;

(iv) The cost of the security devices;

(v) Other security measures in effect at the banking office; and

(vi) The physical characteristics of the banking office structure and its surroundings.

§ 21.4 Report
The security officer for each national bank shall report at least biennially to the bank’s board of directors on the effectiveness of the security program.

4. In § 21.11, paragraph (f)(1) is revised to read as follows:

§ 21.11 Reports of crimes and suspected crimes.

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration
14 CFR Part 39

[Docket No. 89-NM-20-AD]
Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which currently requires repetitive operational testing of fuel boost pump bypass valves. That AD was prompted by a determination that small amounts of water on the valves may freeze and prevent valve operation. This condition, if not corrected, could result in the loss of both engines in the event all aircraft fuel boost pumps were lost (e.g., loss of electrical power to pumps). This action would also require specific terminating action for the repetitive operational tests.

DATES: Comments must be received no later than June 11, 1990.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 89-NM-20-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or...
This condition, if not corrected, could lead to the loss of both engines in the event all aircraft fuel boost pumps were inoperative. The FAA has reviewed and approved Boeing Alert Service Bulletin 757-28A0017, dated January 4, 1989, which retains the periodic fuel boost pump bypass valve purging procedure required by AD 88-08-04 and adds procedures to incorporate a modified bypass valve configuration.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede AD 86-08-04 with a new airworthiness directive that would also require modification of the valves in accordance with Part II of the service bulletin previously described, as terminating action for the currently required repetitive checks.

The degree of assurance necessary as to the adequacy of inspections needed to maintain the safety of the transport airplane fleet, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has caused the FAA to place less emphasis on repetitive inspections and more emphasis on design improvements and material replacement. Thus, in lieu of its previous position of continual inspection, the FAA has decided to require, whenever practicable, airplane modifications necessary to remove the source of the problem addressed. The proposed modification requirements of this action are in consonance with that policy decision.

The original issue of the subject service bulletin applied to all Boeing Model 757 airplanes. The proposed modification is applicable only to those airplanes built prior to incorporation by service bulletin previously described, as terminating action for the currently required repetitive checks.

The original issue of the subject service bulletin applied to all Boeing Model 757 airplanes. The proposed modification is applicable only to those airplanes built prior to incorporation by service bulletin previously described, as terminating action for the currently required repetitive checks.

The regulations proposed herein would not have substantial direct effects on the States, or 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 12102, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12898; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 28, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39
Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment
Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423.

2. Section 39.13 is amended by superseding Amendment 39-5897 (53 FR 12379; April 14, 1988), AD 88-08-04, with the following new airworthiness directive:


To prevent engine flameout due to boost pump bypass valve freezing, accomplish the following:

A. Prior to the accumulation of 150 flight hours after May 4, 1988 (the effective date of Amendment 39-5897, AD 88-09-04), and thereafter at intervals not to exceed 300 flight hours, perform an operational test of the fuel boost pump bypass valves in accordance with Boeing Alert Service Bulletin 757-28A0017, dated February 11, 1989, or Part I of Revision 2, dated January 4, 1989.

B. Within the next 3,000 hours time-in-service after the effective date of this amendment, modify the fuel boost pump bypass valves in accordance with Part II of Boeing Alert Service Bulletin 757-28A0017, Revision 2, dated January 4, 1989. This constitutes terminating action for the repetitive tests required by paragraph A., above.
C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA.


Issued in Seattle, Washington, on April 11, 1990.

Darrell M. Pederson, Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before any final action is taken on the proposed rule. The proposal contained in this notice may be changed in light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Regional Rules Docket. Office of the Assistant Chief Counsel, Federal Aviation Administration, 4400 Blue Mound Road, room 158, Building 3B, Forth Worth, Texas, for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of the proposed AD will be filed in the Rules Docket.

Comments wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: Comments to Docket Number 89-ASW-43. The postcard will be date/time stamped and returned to the commenter.

After issuing Amendment 39-4275, (46 FR 80087; December 14, 1981), AD 81-26-01, which currently requires a visual inspection of the main rotor drive shaft for cracks on the Hughes Model 300D helicopter, the FAA has determined that: (1) All Model 369 series helicopters are affected, and (2) the main rotor drive shaft retirement life specific models should be changed. Therefore, the FAA is proposing to amend Amendment 39-4275 by extending the applicability to include all Model 369 series helicopters. In addition, Hughes Service Information Notices EN-4, dated April 29, 1983, and FN-4, dated July 28, 1983, are proposed to be added to the requirement of paragraph (a)(1); the information in the "NOTE" following paragraph (a)(2) is proposed to be included as a new paragraph (a)(3) to clarify that mandatory language is included to specify the main rotor drive shaft retirement life for specific Model 369 aircraft; and finally, paragraph (c) is proposed to be amended to update the FAA address.

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 will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this proposed regulation involves 365 aircraft at an approximate cost to each aircraft of only $100 per year. Therefore, I certify that this action: (1) Is not a "significant rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 28, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the Regional Rules Docket. A copy of it may be obtained from the Regional Rules Docket.

List of Subjects in 14 CFR Part 39
Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment
Accordingly, pursuant to the authority delegated to me by the Administrator.
the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

§ 39.13 [Amended]

2. Section 39.13 is amended by
   amending Amendment 39–4275 (46 FR 60807; December 14, 1991), AD 81–26–01, by revising the applicability paragraph; by revising paragraph (a)(1); by revising the “NOTE” paragraph following paragraph (a)(2); ANN-1 by revising it as paragraph (a)(3); and by revising paragraph (c), as follows:

McDonnell Douglas Helicopter Company (MDHC): Applies to all Model 369 series helicopters equipped with main rotor drive shaft, P/N 369D25510, certified in any category. (Docket Number 89–ASW–43)

Compliance is required as indicated, unless already accomplished.

To prevent failure of the main rotor drive shaft, P/N 369D25510, which could result in the loss of the helicopter, accomplish the following:

(a) * * *
   (1) Visually inspect the spherical spline and adjacent shaft area of the drive shaft, P/N 369D25510, in accordance with the instructions contained in McDonnell Douglas Helicopter Company Service Information Notices (SIN) DN–99, dated November 30, 1987; dated April 29, 1983; or FN–4, dated July 29, 1983, as applicable.
   * * * * *
   (2) Drive shaft retirement is established at 3,410 hours’ time in service for Models 369F and FF, and 5,020 hours’ time in service for Models 369D and E.
   * * * * *
   (c) Alternative inspections, modifications, or other actions which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, ANM–101L, FAA, Northwest Mountain Region, 3229 East Spring Street, Long Beach, California 90806–2425, telephone (213) 988–5200.

Issued in Fort Worth, Texas, on April 3, 1990.

James D. Erickson,
Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 90–8960 Filed 4–17–90; 8:45 am]
BILLING CODE 4910–13–M
requirements for real estate transactions contained in section 6045(e). Changes to the proposed regulations made by the Tax Reform Act of 1986, the Technical and Miscellaneous Revenue Act of 1988, the subtitle G (the Improved Penalty Administration and Compliance Tax Act) of the Revenue Reconciliation Act of 1989. The proposed regulations would affect certain persons who participate in real estate transactions and provide them with the guidance needed to comply with the law. The proposed regulations would supersede § 1.6045-3T on becoming effective.

DATES: The proposed regulations are proposed to be effective for real estate transactions with dates of closing occurring on or after January 1, 1991.

Written comments must be received by June 18, 1990. Outlines for persons wishing to speak at the public hearing scheduled for September 24, 1990, must be delivered by September 10, 1990. See the Notice of Public Hearing published elsewhere in this issue of the Federal Register.

ADDRESSES: Send comments and requests to speak at the public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Attn: CC:CORP:T:R room 4429 (IA-130-87). In the alternative, comments and requests may be hand-delivered to: Internal Revenue Service, Attn: CC:CORP:T:R (IA-130-87), room 4429, Washington, DC 20224.


SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments concerning the accuracy of the burden estimate and suggestions for reducing the burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer TFP, Washington, DC 20224.

The collections of information in this regulation are in proposed § 1.6045-4 (a), (b), (c), (d), (e), (f), (g), (h), (i), and (m). This information is required by the Internal Revenue Service pursuant to section 6045(e). This information will be used to verify that a taxpayer properly reported a sale or exchange of real estate. The likely respondents are businesses or other for-profit institutions, governmental units, and individuals.

Estimated total annual reporting and recordkeeping burden: 84,000 hours.

The estimated annual burden per respondent/recordkeeper varies from .10 to 1.00 hours depending on individual circumstances, with an estimated average of .28 hours.

Estimated number of respondents and recordkeepers: 300,000.

Estimated annual frequency of responses: One time.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual respondents/recordkeepers may require greater or less time, depending on their particular circumstances.

Background

This document proposes § 1.6045-4 that would supersede § 1.6045-3T of the Income Tax Regulations (26 CFR part 1) to provide rules relating to the information reporting requirements for real estate transactions under section 6045 (e) of the Internal Revenue Code of 1986. The proposed amendments reflect the addition of section 6045 (e) to the Code by section 1521 of the Tax Reform Act of 1986 (100 Stat. 2746). Section 6045 (e) subsequently was amended by section 1015 (e) of the Technical and Miscellaneous Revenue Act of 1988 ("TAMRA"), (Pub. L. 100-647, 102 Stat. 3342), enacted on November 10, 1988.

Subtitle G (the Improved Penalty Administration and Compliance Tax Act) of the Revenue Reconciliation Act of 1990 (Pub. L. 101-239, 103 Stat. 2106), makes changes to magnetic media and penalty provisions of the Code that relate to the reporting requirements.

On April 3, 1987, temporary regulations (§ 1.6045-3T) relating to information reporting on real estate transactions were published in the Federal Register (52 FR 10742). In addition, a cross-reference notice of proposed rulemaking (proposed § 1.6045-3) was published in that issue of the Federal Register (52 FR 10774). Those temporary regulations provided that the reporting requirements would apply to sales and exchanges of certain residential real estate ("one-to-four-family real estate"). However, the preamble to the temporary regulations also contained a statement that the Internal Revenue Service anticipated the issuance of additional regulations applying the information reporting requirements to other transactions.

More than 50 written comments were received in response to the cross-reference notice of proposed rulemaking. A Notice of Public Hearing was published on June 19, 1987, in the Federal Register (52 FR 23306). The public hearing was held on July 22, 1987. Five commentators spoke at the public hearing.

In Announcement 88-5, I.R.B. 28, the Service provided notice that additional regulations would be issued to require reporting with respect to additional transactions, and that the additional reporting requirements would apply on a prospective basis only.

This document proposes to amend § 1.6045-3T to limit the application of those regulations to real estate transactions with dates of closing occurring prior to January 1, 1991.

This document proposes to apply the real estate information reporting requirements to a broad variety of real estate transactions, well beyond the scope of § 1.6045-3T. The new rules are separately contained in new proposed § 1.6045-4. In addition, § 1.6045-4 proposes rules that specify which real estate transactions and which transferors of otherwise reportable real estate are excepted from the new reporting requirements. The proposed rules relating to the determination of who is responsible for reporting, and the rules relating to time, manner, and place of reporting are substantially the same as in § 1.6045-3T.

Explanation of Provisions

Under the proposed regulations, the term "real estate transaction" would include only a sale or exchange of reportable real estate. The proposed regulations would define the term "reportable real estate" to include any present or future ownership interest in: (a) Improved and unimproved land, including air space; (b) Inherently permanent structures, including any residential, commercial or industrial building; (c) Any condominium unit and its appurtenant fixtures and common elements (including land); or (d) Stock in a cooperative housing corporation (as defined in section 216).

The term "ownership interest" includes fee simple interests, life estates, reversions, remainders, and perpetual easements. The term "ownership interest" also includes any previously created rights to possession or use for all or a portion of any particular year (i.e., a leasehold, easement, or "timeshare"), provided such rights have a remaining term of at
The proposed regulations would except certain transfers from the reporting requirements: (a) Transactions that are not sales or exchanges; (b) foreclosures (modifying the exception contained in § 1.6045-3T, which only applies to transactions subject to reporting under § 6050J); and (c) de minimis transfers in which the total consideration (in money, services, and property) received or to be received is determinable with certainty and amounts to less than $520 in value as measured on the date of closing. The Service considers the exception for de minimis transfers to be appropriate given the extensive range for nominal consideration that would otherwise be subject to the proposed reporting requirements. The Service welcomes comments on this proposed exception, in particular the amount proposed.

Unlike § 1.6045-3T, the proposed rules contained in proposed § 1.6045-4 do not include an exception for involuntary conversions involving a sale or exchange. Thus, for example, a sale of reportable real estate, under threat or imminence of seizure, requisition, or condemnation, that occurs on or after the effective date of § 1.6045-4 is subject to the reporting requirements of those proposed regulations.

In addition, the proposed regulations would except certain property from the reporting requirements (provided the sale or exchange of such property is not related to the sale or exchange of reportable real estate): (a) An interest in surface or subsurface natural resources, or crops; (b) a burial plot or vault; and (c) an unaffixed mobile home (modifying or crops; (b) a burial plot or vault; and (c) an unaffixed mobile home (modifying the exception provided in § 1.6045-3T, which contained an exception based on the presence of wheels and axles).

Under the proposed regulations, transactions involving foreign transferees would be subject to information required under section 6045(e). However, the Internal Revenue Service is studying the relationship between the provisions of the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA) and section 6045(e), to determine whether any exception under section 6045(e) is appropriate solely because of the foreign status of the transferee(s). Taxpayers are urged to comment on the interaction between these provisions.

No return of information would be required with respect to a transferor that is a corporation under section 7701(a)(3) or section 7701(a) or that is treated, under the proposed regulations, as a corporation, a governmental unit, or an exempt volume transferor (as defined in the proposed regulations).

The Internal Revenue Service is considering the implementation of new compliance programs to more effectively use returns of information on corporate (and other business) recipients of income. Thus, the appropriateness of the exception for corporate transferors may be reviewed at a later date. However, the Service welcomes comments on whether certain corporations should continue to be excepted from the reporting requirements, even if the general exception for corporate transferors is removed.

Establishing exempt volume transferor status would require a certification under penalties of perjury. The certification would have to be in accordance with the requirements of the proposed regulations. To promote simplification in the reporting rules, the proposed regulations would allow a reporting person to report even if the requisite certification of exempt volume transferor status is provided.

The proposed regulations would provide rules for determining the person (referred to in section 6045(e), as amended, and these regulations as the "reporting person"), who is required to report with respect to a real estate transaction. Following is a summary of these rules, which would be substantially the same as in § 1.6045-3T. Although there may be a number of persons involved in a real estate transaction, only the reporting person is required to report. Thus, for example, if the reporting person with respect to a transaction fails to report, no other person involved in the transaction will have a duty to report.

If no person is responsible for closing the transaction (and there is no designation agreement that meets the requirements of the regulations), the reporting person with respect to the transaction is the first-listed of the persons that participate in the transaction as (a) the mortgage lender, (b) the transferor's broker, (c) the transferee's broker, or (d) the transferor.

The proposed regulations provide that the participants in a real estate transaction may, by agreement, designate a person as the reporting person with respect to the transaction. Only the person responsible for closing the transaction, an attorney for the transferee or transferor, a title or escrow company, or a mortgage lender may be designated under such an agreement.

A designation agreement must be in writing. Persons other than the designated person may be parties to the agreement. The agreement must be available for inspection by any person involved in the real estate transaction, or by the Internal Revenue Service. If these conditions are met and the agreement otherwise satisfies the requirements of the proposed regulations, the designated person (and not the person who would otherwise be the reporting person) is the real estate reporting person with respect to the transaction.

The proposed regulations prescribe the information required to be shown on the return and on the statement furnished to the transferee, the manner in which the return must be filed with
the Service and the statement must be furnished to the transferor, and the time for filing such returns and furnishing such statements.

The proposed regulations would provide special rules for transactions involving multiple transferees. The proposed regulations generally would require a reporting person to make a separate information return with respect to each transferee and to request an allocation of the gross proceeds from the transfers. Transferees who are husband and wife and who hold the real estate at the time of closing as a tenancy in common, a joint tenancy, a tenancy by the entirety, or community property are, in the absence of an uncontested allocation received by the reporting person, not considered multiple transferees for purposes of these rules.

The proposed regulations require magnetic-media reporting for real estate transactions, but provide an exception for persons who meet the de minimis standard established in section 6011(e)(2) of the Code, as amended. In addition, the Commissioner may authorize reporting on the prescribed Form 1099 if undue hardship is shown.

The proposed regulations also provide rules for the solicitation of taxpayer identification numbers (TINs) from transferees, but do not require backup withholding with respect to real estate transactions reportable under section 6045(e). The solicitation must be made by providing a written statement containing certain information to the transferee. This statement may be provided to the transferee in person or in a mailing that includes other items.

Pursuant to section 6045(e)(3), as added by TAMRA, no separate charge may be made for complying with any of the requirements of this section.

The amendments contained in § 1.6045-4 are proposed to apply to real estate transactions with dates of closing occurring on or after January 1, 1991.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7005(f) of the Internal Revenue Code, these proposed regulations will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted, consideration will be given to any written comments that are submitted (preferably nine copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing is scheduled for September 24, 1990. Notice of the public hearing is published in the Notice portion of this issue of the Federal Register.

Drafting Information

The principal author of these proposed regulations is Arthur E. Davis III of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects

26 CFR Part 1.6001-1 through 1.6100-2
- Income taxes. Administration and procedure, Filing requirements.

26 CFR Part 602
- Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR parts 1 and 602 are as follows:

PART 1—INCOME TAX; CALENDAR YEARS BEGINNING AFTER DECEMBER 31, 1986

Par. 1. The authority for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805, * * * Section 1.6045-4 also issued under 26 U.S.C. 6045.

Par. 2. Section 1.6045-3T is amended by revising the heading and revising paragraph (p) as follows:

§ 1.6045-3T Information reporting on real estate transactions with dates of closing occurring on or after January 1, 1991 (Temporary).

(p) Effective date. This section shall be effective for real estate transactions with dates of closing (as determined under paragraph (h)(2)(i) of this section) that occur after December 31, 1986, and prior to January 1, 1991 (Temporary).

Par. 3. The following new § 1.6045-4 is added in the appropriate place:

§ 1.6045-4 Information reporting on real estate transactions with dates of closing on or after January 1, 1991.

(a) Requirement of reporting. Except as otherwise provided in paragraphs (c) and (d) of this section, a real estate reporting person ("reporting person") must make an information return with respect to a real estate transaction and, under paragraph (m) of this section, furnish a statement to the transferor. A reporting person may also report with respect to transactions otherwise excepted in paragraphs (c) and (d) of this section. However, if the reporting person so elects, the return must be filed and the statement furnished in accordance with the provisions of this section. For the definition of a real estate transaction for purposes of these reporting requirements, see paragraph (b) of this section. For rules for determining the reporting person with respect to a real estate transaction, see paragraph (e) of this section.

(b) Definition of real estate transaction—(1) In general. A transaction is a "real estate transaction" under this section if the transaction consists in whole or in part of the sale or exchange of "reportable real estate" (as defined in paragraph (b)(2) of this section) for money, indebtedness, property other than money, or services. The term "sale or exchange" shall include any transaction properly treated as a sale or exchange for Federal income tax purposes, whether or not the transaction is currently taxable. Thus, for example, a sale or exchange of a principal residence is a real estate transaction under this section even though the transferor is entitled to defer recognition under section 121 (relating to rollover of gain on sale of principal residence), or the transferor is entitled to the special one-time exclusion of gain from the sale of a principal residence provided by section 121 to certain persons who have attained age 55.

(2) Definition of reportable real estate. Except as otherwise provided in paragraph (c)(2) of this section, the term "reportable real estate" means any present or future ownership interest in—

(i) Land (whether improved or unimproved), including air space;

(ii) Any inherently permanent structure, including any residential, commercial or industrial building;

(iii) Any condominium unit, including appurtenant fixtures and common elements (including land); or
For purposes of this section, the term "ownership interest" includes fee simple interests, life estates, reversions, remainders, and perpetual easements. In addition, the term "ownership interest" includes any previously created rights to possession or use for all or a portion of any given year (i.e., a leasehold, easement, or "timeshare"), with a remaining term of at least 30 years, including any period for which such rights may be renewed at the option of the holder of the rights, as determined on the date of closing (as defined in paragraph (b)(2)(ii) of this section). Thus, for example, a pre-existing leasehold on a building with an original term of 99 years is an ownership interest in real estate for purposes of this section if it has a remaining term of 35 years as of the date of closing, but not if it has a remaining term of only 10 years as of the date of closing. However, the term "ownership interest" does not include an option to acquire otherwise reportable real estate.

(c) Exception for certain exempt transactions—(1) Certain transfers. No return of information is required with respect to—

(i) A transaction that is not a sale or exchange (such as a gift (including a transaction treated as a gift under section 1041) or bequest, or a financing or refinancing that is unrelated to the sale or exchange of reportable real estate), even of the transaction involves reportable real estate, as defined in paragraph (b)(2) of this section;

(ii) A transfer in full or partial satisfaction of any indebtedness secured by the property so transferred, including a foreclosure, a transfer in lieu of foreclosure or an abandonment; or

(iii) A transfer (a "de minimus transfer") in which it can be determined with certainty that the total consideration (in money, services and property) received or to be received, amounts to less than $250 in value as measured on the date of closing (as defined in paragraph (b)(2)(ii) of this section), even if the transaction involves reportable real estate. Thus, for example, if a contract for sale of reportable real estate recites total consideration of "$1.00 plus other valuable consideration," the transfer is not a de minimus transfer unless the reporting person can determine that the "other valuable consideration" received or to be received is less than $249 in value as measured on the date of closing.

(2) Certain property. Notwithstanding the provisions of paragraph (b)(2) of this section, no return of information is required with respect to a sale or exchange of an interest in any of the following property—provided the sale or exchange of such property is not related to the sale or exchange of reportable real estate—

(i) An interest in surface or subsurface natural resources (i.e., timber, water, ores and other natural deposits) or crops, whether or not such natural resources or crops are severed from the land;

(ii) A burial plot or vault; or

(iii) A manufactured structure used as a dwelling that is manufactured and assembled at a location different from that where it is used, but only if such structure is not affixed, at the date of closing (as defined in paragraph (b)(2)(ii) of this section), to a foundation. Thus, a transfer of an unaffixed mobile home that is unrelated to the sale or exchange of reportable real estate is excepted from the reporting requirements of this section.

(d) Exception for certain exempt transfers—(1) General rule. No return of information is required with respect to a transferor that is a corporation under section 7701(a)(3) or section 7701(a)(18), or is considered under paragraph (e)(2) of this section to be—

(i) A corporation;

(ii) A governmental unit; or

(iii) An exempt volume transferor. In the case of a real estate transaction with respect to which there is one or more exempt transferor(s) and one or more non-exempt transferor(s), the reporting person is required to report with respect to any non-exempt transferor. The special rule for allocation of gross proceeds, as provided in paragraph (i)(5) of this section, applies to such a transaction.

(2) Treatment as exempt transferor. Absent actual knowledge to the contrary, a reporting person may treat a transferor as—

(i) A corporation if—

(A) The name of the transferor contains an unambiguous expression of corporate status, such as Incorporated, Inc., Corporation, Corp. or P.C. (but not Company or Co.);

(B) The name of the transferor contains the term "insurance company," "reinsurance company," or "assurance company"; or

(C) The transfer or loan documents clearly indicate the corporate status of the transferor;

(ii) A governmental unit if the transferor is—

(A) The United States or a state, the District of Columbia, a possession of the United States, a political subdivision of any of the foregoing, or any wholly owned agency or instrumentality of any one or more of the foregoing; or

(B) A foreign government, a political subdivision thereof, an international organization, as defined in section 7701(a)(18), or any wholly owned agency or instrumentality of the foregoing; or

(iii) An exempt volume transferor if, and only if, the reporting person received a certification of exempt status under paragraph (d)(3) of this section.

(3) Certification of exempt status—(i) In general. A certification of exempt status must contain—

(A) The name, address, and taxpayer identification number of the transferor (the address must be that of the permanent residence (in the case of an individual), that of the principal office (in the case of a corporation or partnership), or that of the permanent residence or principal office of any fiduciary (in the case of a trust or estate));

(B) Sufficient information to identify any otherwise reportable real estate not reported by virtue of the exempt status of the transferor; and

(C) A declaration that the transferor has sold or exchanged during either of the prior two calendar years, or previously sold or exchanged during the current calendar year, or, as of the date of closing (as defined in paragraph (b)(2)(ii) of this section), reasonably expects to sell or exchange during the current calendar year at least 25 separate items of reportable real estate (as defined in paragraph (b)(2) of this section) to at least 25 separate transferees, and that each such item, at the date of closing (as defined in paragraph (b)(2)(ii) of this section), reasonably expects to sell or exchange during the current calendar year at least 25 separate items of reportable real estate (as defined in paragraph (b)(2) of this section) to at least 25 separate transferees, and that each such item was or will be held primarily for sale or resale to customers in the ordinary course of a trade or business. For example, the declaration may be worded as follows:

[Insert name of transferor]

(check one or more):

(1) ______ has sold or exchanged during either of the prior two calendar years.

(2) ______ previously sold or exchanged during the current calendar year.

(3) ______ on the date of closing expects to sell or exchange during the current calendar year at least 25 separate items of reportable real estate.

(ii) Additional requirements. A certification of exempt status must be—

(A) Signed under penalties of perjury by the transferor or any person who is authorized to sign a declaration under penalties of perjury in behalf of the
transferor as described in section 6061 and the regulations thereunder;

(B) Received by the reporting person no later than the time of closing; and

(C) Retained by the reporting person for four years following the close of the calendar year in which the date of closing (as determined under paragraph (h)(2)(ii) of this section) occurs.

(iii) Reporting person may accept or disregard certification. A reporting person must either accept or merely accept a certification of exempt status. Moreover, notwithstanding a transferor's furnishing of such certification, a reporting person may disregard the certification and, instead, report with respect to the transaction. See paragraph (a) of this section for the requirement that such elective reporting must be in compliance with the provisions of this section.

(e) Person required to report—(1) In general. Although there may be other persons involved in a real estate transaction, only the reporting person is required to report with respect to any real estate transaction. Except as provided in a designation agreement under paragraph (e)(5) of this section, the reporting person with respect to a real estate transaction is—

(i) The person responsible for closing the transaction, as defined in paragraph (e)(3) of this section; or

(ii) If there is no person responsible for closing the transaction, the person determined to be the reporting person under paragraph (e)(4) of this section.

A person may be the reporting person with respect to a transaction whether or not such person performs or is licensed to perform real estate brokerage services for a commission or fee.

(2) Employees, agents, and partners. For purposes of this paragraph (e), if an employee, agent, or partner (other than an employee, agent, or partner of the transferor or the transferee) acting within the scope of such person's employment, agency, or partnership participates in a real estate transaction—

(i) Such participation shall be attributed to such person's employer, principal, or partnership; and

(ii) Only the employer, principal, or partnership (and not such person) may be the reporting person with respect to such transaction as a result of such participation.

However, the participation of a person described in paragraph (e)(9)(i) of this section for a person listed on the Uniform Settlement Statement as the settlement agent acting as an agent of another is not attributed to the principal.

(3) Person responsible for closing the transaction—(i) Uniform Settlement Statement used. If a Uniform Settlement Statement prescribed under the Real Estate Settlement Procedures Act of 1974 (RESPA), 12 U.S.C. 2601 et seq. is used with respect to the real estate transaction and a person is listed as settlement agent on the statement, such person is the person responsible for closing the transaction. For purposes of this section, a Uniform Settlement Statement shall include any amendments or variations thereto, or substitutions therefor that may hereafter be prescribed under RESPA, provided that any such amended, varied, or substituted form requires disclosure of the parties to the transaction, the application of the proceeds of the transaction, and the identity of the settlement agent or other person responsible for preparing the form.

(ii) Other closing statement used. If a Uniform Settlement Statement is not used, or if a Uniform Settlement Statement is used, but no person is listed as settlement agent, the person responsible for closing the transaction is the person who prepares a closing statement presented to the transferor and transferee at, or in connection with, the closing of the real estate transaction. For purposes of this section, a closing statement is any closing statement, settlement statement (including a Uniform Settlement Statement), or other written document that identifies the transferor and transferee, reasonably identifies the transferred real estate, and describes the manner in which the proceeds payable to the transferor are to be (or were) disbursed at, or in connection with, the closing.

(iii) No closing statement used or multiple closing statements used. If no closing statement is used or multiple closing statements are used, the person responsible for closing the transaction is the first-listed of the persons that participate in the transaction as—

(A) The attorney for the transferee who is present at the occasion of the delivery of either the transferee's note or a significant portion of the cash proceeds to the transferor, or who prepares or reviews the preparation of the document(s) transferring legal or equitable ownership of the real estate;

(B) The attorney for the transferor who is present at the occasion of the delivery of either the transferor's note or a significant portion of the cash proceeds to the transferor, or who prepares or reviews the preparation of the document(s) transferring legal or equitable ownership of the real estate; or

(C) The disbursing title or escrow company that is most significant in terms of gross proceeds disbursed.

If more than one attorney would be the person responsible for closing the transaction under the preceding sentence, the person among such attorneys who is considered responsible for closing the transaction under this paragraph is the person whose involvement in the transaction is most significant.

(4) Determination of the real estate reporting person in the absence of a person responsible for closing the transaction. If no person is responsible for closing the transaction (within the meaning of paragraph (e)(3) of this section), the reporting person with respect to the real estate transaction is the person first-listed below of the persons that participate in the transaction as—

(i) The mortgage lender (as defined in paragraph (e)(6)(i) of this section);

(ii) The transferor's broker (as defined in paragraph (e)(6)(ii) of this section);

(iii) The transferee's broker (as defined in paragraph (e)(6)(iii) of this section);

(iv) The transferee (as defined in paragraph (e)(6)(iv) of this section).

(5) Designation agreement—(1) In general. If a written designation agreement executed at or prior to the time of closing designates one of the persons described in paragraph (e)(5)(i) of this section as the reporting person with respect to the transaction and the designated person is a party to the agreement, the designated person is the reporting person with respect to the transaction. It is not necessary that all parties to the transaction (or that more than one party) be parties to the agreement.

(ii) Persons eligible. A person may be designated as the reporting person under this paragraph (e)(5) only if the person is—

(A) The person responsible for closing the transaction (as defined in paragraph (e)(3) of this section);

(B) A person described in paragraph (e)(3)(ii) (A), (B) or (C) of this section (whether or not such person is responsible for closing the transaction)

or

(C) The mortgage lender (as defined in paragraph (e)(6)(i) of this section).

(iii) Form of designation agreement. A designation agreement may be in any form that is consistent with the requirements of this paragraph (e)(5), and may be included on a closing statement with respect to the transaction. The designation agreement must, however, include the name and
address of the transferor and transferee and the address and any additional information necessary to identify the real estate transferred. The agreement must identify name and address of the person designated as the reporting person with respect to the transaction, and all other parties (if any) to the agreement. All parties to the agreement must date and sign the agreement and must retain the agreement for four years following the close of the calendar year in which the date of closing (as determined under paragraph (b)(2)(ii) of this section) occurs. Upon request by the Internal Revenue Service, or any person involved in the transaction who did not participate in the designation agreement, the agreement must be made available for inspection.

(6) **Meaning of terms—(i) Mortgage lender.** For purposes of this paragraph (e), the term “mortgage lender” means the person who lends new funds in connection with the transaction, but only if the repayment of such funds is secured in whole or in part by the real estate transferred. If new funds are advanced by more than one person, the mortgage lender is the person who advances the largest amount of new funds. If two or more persons advance equal amounts of new funds and no other person advances a greater amount of new funds, the mortgage lender among the persons advancing such equal amounts is the person with the security interest that is most senior in terms of priority. For purposes of this paragraph (e)(6)(i), any amounts advanced by the transferor are not treated as new funds.

(ii) **Transferor’s broker.** For purposes of this paragraph (e), the term “transferor’s broker” means only the broker that contracts with the transferor and is compensated in connection with the transaction.

(iii) **Transferee’s broker.** For purposes of this paragraph (e), the term “transferee’s broker” means only the broker that participates to a significant extent in the preparation of the transferee’s offer to acquire the real estate or that presents such offer to the transferor. If more than one person is so described, the transferee’s broker is the person whose participation in the preparation of the transferee’s offer to acquire the real estate is most significant or, in the event there is no such person, the person whose participation in the presentation of the offer is most significant.

(iv) **Transferee.** For purposes of this paragraph (e), the term “transferee” means the person who acquires the greatest interest in the real estate. If there is more than one such person, the transferee is the person listed first on the document(s) transferring legal or equitable ownership of the real estate.

[(f)](1) **Multiple transferors—(1) General rule.** In the case of multiple transferors, each of which transfers an interest in the same reportable real estate, the reporting person shall make a separate information return with respect to each transferor. Paragraph (f)(5) of this section provides rules for the determination of gross proceeds to be reported in the case of multiple transferors.

[(g)](2) **Rules for Spouses.** Transferors who are husband and wife at the time of closing and hold the reportable real estate as tenants in common, joint tenants, tenants by the entirety, or community property are treated as a single transferor for purposes of paragraphs (f)(1), (f)(3)(i), (f)(3)(ii) and (f)(6) of this section, unless the reporting person elects to report the property, at or prior to the time of closing, an uncontested allocation of gross proceeds between them. In the case of a husband and wife treated as a single transferor, the reporting person may treat either as the transferor for purposes of paragraphs (f)(3)(i) and (f)(3)(ii) of this section, relating to reporting and soliciting taxpayer identification numbers.

[(h)](1) **Prescribed Form.** Except as otherwise provided in paragraph (k) of this section, the information required by paragraph (a) of this section shall be made on Form 1099.

(ii) **Information required—(1) In general.** The following information must be set forth on the Form 1099 required by this section:

((i)) The name, address, and taxpayer identification number (TIN) of the reporting person, and where applicable, paragraph (f)(2) of this section;

((ii)) A general description of the real estate transferred (in accordance with paragraph (h)(2)(i) of this section);

((iii)) The date of closing (as defined in paragraph (h)(2)(ii) of this section);

((iv)) To the extent required by the Form 1099 and its instructions, the entire gross proceeds with respect to the transaction (as determined under the rules of paragraph (i) of this section), and, in the case of multiple transferors, the gross proceeds allocated to the transferor (as determined under paragraph (h)(3)(i) of this section);

((v)) If the transferor received (or will receive) property (other than cash and consideration treated as cash in computing gross proceeds) or services as part of the consideration for the transaction or if the transferor may receive property (other than cash) or services in satisfaction of an obligation having a stated principal amount, an indication that such property or services were (or will, or may, be) so received;

((vi)) The real estate reporting person’s name, address, and TIN;

((vii)) [Reserved]; and

((viii)) Any other information required by the Form 1099 or its instructions.

[(j)](2) **Meaning of terms—(1) General description of the real estate transferred.** A general description of the real estate transferred includes the complete address of the property. If the address would not sufficiently identify the property, a general description of the real estate also includes a legal description (e.g., section, lot, and block) of the property.

[(k)](1) **Date of closing.** In the case of a real estate transaction with respect to which a Uniform Settlement Statement is used, the date of closing shall be the date (if any) properly described as the “Settlement Date” on such statement. In all other cases, the date of closing shall be the earlier of the date on which title is transferred or the date on which the economic burdens and benefits of ownership of the real estate shift from the transferor to the transferee.

((i)) **General.** Except as otherwise provided in this paragraph (k), the term “gross proceeds” means the total cash received or to be received by or on behalf of the transferor in connection with the real estate transaction. The stated principal amount of any obligation to pay cash to or for the benefit of the transferor in the future (including any obligation having a stated principal amount that may be satisfied by the delivery of property (other than cash) or services) and the amount of any liability of the transferor assumed by the transferee as part of the consideration for the transfer, or the fair market value of any liability to which the real estate acquired is subject (whether or not the transferor is personally liable for the debt) shall be treated as cash received or to be received by the transferee in computing gross proceeds. Thus, gross proceeds does not include the value of any property (other than cash and consideration treated as cash) or services transferred in connection with the real estate transaction. See paragraph (h)(1)(v) of this section for the information that must be included on the Form 1099 required by this section in cases in which the transferee receives (or will, or may, receive) property (other than cash and consideration treated as cash) or services as part of the consideration for the transfer.

((2)) **Treatment of sales commissions and similar expenses.** In computing gross proceeds, the total cash received or to be received by or on behalf of the
The reporting person may, however, rely on the unchallenged response of any transferor or any written statement requesting a waiver for undue hardship filed with the National Computer Center, Martinsburg, West Virginia in accordance with applicable revenue procedures.

(2) Substitute forms. A reporting person that is described in paragraph (k)(2)(i) of this section may prepare and use a form that contains provisions identical with those of Form 1099 if the reporting person complies with all applicable revenue procedures relating to substitute Form 1099, including any requirement relating to the use of machine-readable paper forms.

(i) Requesting taxpayer identification numbers (TINs)—(1) Solicitation—(i) General requirements. A reporting person that is required to make an information return with respect to a real estate transaction under this section must solicit a TIN from the transferor at or prior to the time of closing. The solicitation may be in person or on a mailing that includes other items. If the transferor whose TIN is solicited under this paragraph (1) must furnish such TIN to the reporting person and certify that the TIN is correct. See paragraph (f)(2) of this section for rules that treat a husband and wife as a single transferor (and provide for the TIN solicitation of either) in the absence of an allocation of gross proceeds under paragraph (ii)(5) of this section.

(ii) Content of solicitation. The solicitation shall be made by providing to the person from whom the TIN is solicited a written statement specifying that the person is required by law to furnish a correct TIN to the reporting person, and that the person may be subject to civil or criminal penalties for failing to furnish a correct TIN. For example, the solicitation may be worded as follows:

You are required by law to provide [insert name of reporting person] with your correct taxpayer identification number. If you do not provide [insert name of reporting person] with your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law.

The solicitation shall contain space for the name, address, and TIN of the person from whom the TIN is solicited and for the person to certify under penalties of perjury that the TIN furnished is that person’s correct TIN. The wording of the certification must be substantially similar to the following: “Under penalties of perjury, I certify that the number shown on this
statement is my correct taxpayer identification number." The requirements of this paragraph [(l)(1)(ii)] may be met by providing to the transferee a copy of Form W-9. In the case of a real estate transaction for which a Uniform Settlement Statement is used, the requirements of this paragraph [(l)(1)(ii)] may be met by providing to the transferee a copy of such statement that is modified to conform to the requirements of this paragraph [(l)(1)].

(iii) Retention requirement. The solicitation shall be retained by the reporting person for four years following the close of the calendar year that includes the date of closing (as determined under paragraph [(h)(2)(ii)] of this section). Such solicitation must be made available for inspection upon request by the Internal Revenue Service.

(2) No TIN provided. A reporting person that does not receive the transferee's TIN will not be subject to any penalty cross-referenced in paragraph [(n)] of this section by reason of failure to report such TIN if the reporting person has complied with the requirements of paragraph [(l)(1)] of this section in good faith (determined with proper regard for a course of conduct and the overall results achieved for the year).

[m] Furnishing statements to transferees—(1) Requirement of furnishing statements. A reporting person who is required to make a return of information under paragraph [(a)] of this section shall furnish to the transferee whose TIN is required to be shown on the return a written statement of the information required to be shown on such return. The written statement must bear either the legend shown on the recipient copy of Form 1099 or the following:

This important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction will be imposed on you if this item is not reported and the IRS determines that it has not been reported.

This requirement may be satisfied by furnishing to the transferee a copy of a completed Form 1099 (or substitute Form 1089 that complies with current revenue procedures). In the case of a real estate transaction for which a Uniform Settlement Statement is used, this requirement also may be satisfied by furnishing to the transferee a copy of a completed statement that is modified to comply with the requirements of this paragraph [(m)], and by designating on the Uniform Settlement Statement the items of information (such as gross proceeds or allocated gross proceeds) required to be set forth on the Form 1099. For purposes of this paragraph [(m)], a statement shall be considered furnished to a transferee if it is given to the transferee in person, either at the closing or thereafter, or is mailed to the transferee at the transferee's last known address.

(2) Time for furnishing statement. The statement required under this paragraph [(m)] shall be furnished to the transferee on or after the date of closing and before February 1 of the following calendar year.

(n) Cross-reference to penalties. See the following sections regarding penalties for failure to comply with the requirements of section 6045(e) and this section:

(1) Section 6721 for failure to file a correct information return;

(2) Section 6722 for failure to furnish a correct statement to the transferee;

(3) Section 6723 for failure to comply with other information reporting requirements (including the requirement to furnish a TIN);

(4) Section 6724 for definitions and rules relating to waiver and payment; and

(5) Section 7203 for willful failure to supply information (including a taxpayer identification number).

(o) No separate charge. A reporting person may not separately charge any person involved in a real estate transaction for complying with any requirements of this section.

(p) Backup withholding requirements. [Reserved]

(q) Effective date. This section shall be effective for real estate transactions with dates of closing (as determined under paragraph [(h)(2)(ii)] of this section) that occur on or after January 1, 1991.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority for part 602 continues to read as follows:


§ 602.101 [Amended]

Par. 5. Section 602.101(c) is amended by inserting in the appropriate place in the table "1.6045-4....... 1545-1085".

Fred T. Goldberg, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 90-8866 Filed 4-17-90; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Parts 1 and 602

[IA-130-67]

RIN 1545-AL06

Information Reporting on Real Estate Transactions

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to information reporting on real estate transactions.

DATES: The public hearing will be held on Monday, September 24, 1990, beginning at 10 a.m. Outlines of oral comments must be delivered by Monday, September 10, 1990.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The request to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T.R, (IA-130-87), room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-334-0232 or 202-566-3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6045(e) of the Internal Revenue Code of 1986. The proposed regulations appear in the proposed rules section of the issue of the Federal Register.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Monday, September 10, 1990, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject. Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.
Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 8:45 a.m. An agenda showing the scheduling of the speakers will be made available after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing. By direction of the Commissioner of Internal Revenue.

Cynthia E. Grigsby, Alternate Federal Register Liaison Officer; Assistant Chief Counsel (Corporate).

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted April 6, 1990, and released April 10, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 2301, 1910 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transmission Service, (202) 857-3800, 2700 M Street, NW., suite 140, Washington, DC 20007.

List of Subjects in 47 CFR Part 32

Uniform system of accounts.

Summary of Notice of Proposed Rulemaking

When the Uniform System of Accounts for Telecommunications Companies (USOA) was adopted, the Commission established Account 6124, General Purpose Computers Expense, and Account 6724, Information Management. Audits of the costs recorded in Accounts 6124 and 6724 and experience with data reported by carriers under our Automated Reporting and Management Information System (ARMIS) have revealed a lack of uniformity among the carriers in recording costs in these accounts that detracts from the usefulness of the reported financial data. Moreover, even if these inconsistencies did not exist, separate reporting of general purpose computer and related expenses in Accounts 6124 and 6724 is not very useful for regulatory purposes. In particular, Accounts 6124 and 6724 do not provide the Commission with an accurate picture of the costs of the activities being served by the computers. An assessment of the costs of such activities, among others, would contribute to the development of rates that more accurately reflect the costs of providing the service.

Because of the existing inconsistencies in the accounting for general purpose computer and information management expenses and because separate reporting of costs recorded in these two expense accounts is not very useful for regulatory purposes, the Commission believes a revision of part 32 would be appropriate. In order to improve the accounting for these expenses, the Commission is proposing to eliminate Accounts 6124, General Purpose Computers Expense, and 6724, Information Management, from the USOA and thereby require carriers to classify the computer and information management expenses now recorded in these accounts with the activities they serve. For example, general purpose computer expenses related to customer services would be classified to Account 6623, Customer Services, and general purpose computer expenses related to payroll processing would be classified to Account 6721, Accounting and Finance. The Commission tentatively concludes that the changes proposed here are more in line with the overall objective of the USOA to achieve, to the extent practicable, a more accurate reflection of functions performed in the provision of telecommunications services, and that the changes will produce more uniform reporting of operations than is currently the case.

Part 32, chapter 1 of title 47, Code of Federal Regulations, is proposed to be amended as follows:

PART 32—[AMENDED]

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

Authority: Sec. 4(i), 4(j), and 220 as amended; 47 U.S.C. 175(i), 175(j), and 220 unless otherwise noted.

§ 32.5999 [Amended]

2. In § 32.5999, paragraph (h) is amended by removing the entries from the table titled "General Purpose Computers Expense" and "Information Management"

§ 32.6124 and 32.6724 [Removed]

3. Sections 32.6124 and 32.6724 are removed.

Federal Communications Commission.

Donna R. Searcy, Secretary.

[F.R Doc. 90-8887 Filed 4-17-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-105, RM-7165]

Radio Broadcasting Services; Lonoke, AR and Clarksdale, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the Federal Register Summary concerning radio broadcasting services at Lonoke, Arkansas and Clarksdale, Mississippi. See 55 FR 9468, published March 14, 1990. At column 2, the second and fourth sentences of the Summary are corrected to read "Channel 287A" in lieu of "Channel 229A."
DEPARTMENT OF TRANSPORTATION
Office of the Secretary
49 CFR Part 28
[Docket No. 46769; Notice No. 90-17]
RIN 2105-AA29
Enforcement of Nondiscrimination on the Basis of Handicap in Department of Transportation Conducted Programs
AGENCY: Office of the Secretary, Transportation.
ACTION: Reopening of comment period.
SUMMARY: In response to a request from a group representing persons with disabilities, the Department is reopening the comment period for a notice of proposed rulemaking concerning nondiscrimination on the basis of handicap in federally-conducted programs of the Department of Transportation. The reason for the action is to give commenters additional time to formulate their responses to the NPRM.
DATES: Comments should be received by May 11,1990.
ADDRESSES: Comments should be addressed to Docket Clerk, Docket 46769, Department of Transportation, room 4070, 400 7th Street, NW., Washington, DC 20590. Comments will be available for review by the public at this address from 9 a.m. through 5 p.m. Monday through Friday. Commenters wishing acknowledgment of their comments should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date stamp and sign the card and return it to the commenter.
FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Office of Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, room 30424, 400 7th Street, SW., Washington, DC 20590. Hearing impaired persons may contact Mr. Ashby by using TDD 202/366-8306. Hearing impaired persons may contact Mr. Ashby by using TDD 202/755-7067.
SUPPLEMENTARY INFORMATION: When the Department published the NPRM on this subject on February 9,1990 (55 FR 4633), the Department established a 60-day comment period, which would expire on June 11, 1990. This was an inadvertent error. In litigation surrounding the NPRM, the Department had committed to a 60-day comment period in order to expedite the rulemaking.
To correct this error, and consistent with the Department's agreement in the litigation, the Department revised the comment period to be 60 days (55 FR 9342: March 13, 1990). The revised comment period ended on April 10, 1990.
On March 20, the Department received a request from the National Association of the Deaf Legal Defense Fund, stating that the shortened comment date made it difficult for that organization and other commenters to prepare their comments adequately, since they had been expecting more time. The organization requested a return to the original June 11, 1990, comment closing date. After consulting with the plaintiffs in the litigation in which the Department had agreed to a 60-day comment period, the Department has decided to partially grant this request. The comment period will therefore be reopened, extending through May 11, 1990. As typically is the case in DOT rulemaking, late-filed comments will be considered to the extent practicable.
Issued this 12th day of April, 1990, at Washington DC.
Phillip D. Brady, General Counsel.
[FR Doc. 90-9002 Filed 4-17-90; 8:45 am]
BILLING CODE 4910-62-M

National Highway Traffic Safety Administration
49 CFR Part 531
[Docket No. LVM 89-01; Notice 4]
Passenger Automobile Average Fuel Economy Standards; Proposed Decision To Grant Exemption
AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.
ACTION: Proposed decision to grant exemption from average fuel economy standards and to establish an alternative standard.
SUMMARY: This notice is being issued in response to a petition filed by Dutcher Motors, Inc. (Dutcher) requesting that it be exempted from the generally applicable average fuel economy standard of 26.0 miles per gallon (mpg) for model years (MY) 1986-1988 passenger automobiles, and that a lower alternative standard be established for the company for each of these years.
This notice proposes that the requested exemption be granted and that alternative standards of 16.0 mpg for each of MYs 1986-1988 be established for Dutcher.
DATES: Comments on this notice must be received on or before May 18, 1990.
ADDRESSES: Comments on this notice must refer to Docket No. LVM 89-01; Notice 4 and should be submitted to: Docket Section, NHTSA, room 5108, 400 Seventh Street, SW., Washington, DC 20590. Dutcher Dover is a different address for comments.
FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Mr. Kee's telephone number is (202) 366-0646.
SUPPLEMENTARY INFORMATION: Background
Section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended (the Act), provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if the NHTSA establishes an alternative standard for the manufacturer at its maximum feasible level. Under the Act, a low volume manufacturer is one that manufactures (worldwide) fewer than 10,000 passenger automobiles in the model year for which the exemption is sought. The affected model year and that manufacturer's worldwide amount of passenger automobiles in the second model year before the affected model year. In determining maximum feasible average fuel economy, the agency is required by section 502(c) of the Act to consider:
(1) Technological feasibility;
(2) Economic practicability;
(3) The effect of other Federal motor vehicle standards on fuel economy; and
(4) The need of the Nation to conserve energy.
Selection of the Type of Alternative Standard
The Act permits NHTSA to establish alternative average fuel economy standards applicable to exempted low volume manufacturers in one of three ways: (1) A separate standard may be established for each exempted manufacturer; (2) classes, based on design, size, price, or other factors, may be established for the automobiles of exempted manufacturers, with a
separate average fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers.

On May 16, 1988, Dutcher petitioned NHTSA for an exemption from the generally applicable fuel economy standards for MYs 1986 through 1988. If exemptions are to be granted to Dutcher for the model years covered by its petition, NHTSA believes it is appropriate to establish a separate standard for that manufacturer because the agency has already used this approach for other low volume manufacturers that petitioned for exemptions for MYs 1986–1988. NHTSA has reached final decisions on several exemption petitions filed by low volume manufacturers for the 1986 through 1988 model years; London Coach Co., Inc., for MYs 1986 and 1987 (49 CFR 531.5(b)(9), Rolls-Royce Motors, Inc. for MYs 1986–1988 (49 CFR 531.5(b)(2)).

Timing of Petition

49 CFR part 525 sets forth the required contents of and procedures for processing petitions for exemption from the generally applicable passenger automobile average fuel economy standards. 49 CFR 525.6(b) specifies that each petition for exemption must be filed “not later than 24 months before the beginning of the affected model year, unless good cause for later submission is shown.” The reasons for including this deadline in § 525.6 were to facilitate the low volume manufacturers' planning to comply with the alternative standards, and to ensure that the agency's analysis of those manufacturers' maximum feasible average fuel economy would not be simply a "rubber stamping" of the individual manufacturer's planned fuel economy, caused by insufficient leadtime for the manufacturer to make changes. (See 41 FR 53827, 53832; December 9, 1976.)

However, the agency recognized that there would be situations when "good cause" existed for not filing 24 months before the start of the model year. Although Dutcher's petition was not filed 24 months before the beginning of the model year for the years for which alternate standards were requested, as required by 49 CFR 525.6(b), if "good cause" is shown for late submission, the petition may be accepted. On May 16, 1988, Dutcher petitioned NHTSA for an exemption from the corporate average fuel economy (CAFE) standards for vehicles to be manufactured by Dutcher in MYs 1986, 1987, and 1988. The reasons for its late submission are as follows: Dutcher had only recently been established, in December 1984. Time was needed to design and develop the vehicle, identify suppliers for components, and make provisions to manufacture the vehicle. Because of financial limitations, Dutcher focused its efforts on preparing the production facilities and getting the motor vehicle physically ready to be sold. Prototype testing began about August 1986. The EPA vehicle certification process of the 1986 model year was begun in the same month. Dutcher relied on Ford Motor Company's assistance in getting the vehicle through emissions testing. Emissions certification was not completed until January 1988.

The long lapse in time between the formation of the company and the completion of the certification process was due to the difficulty in making the Ford engine pass certification in the slightly heavier Dutcher vehicle. The delay cast doubt on whether any vehicles could be sold in the early years, 1986, and 1987, and thus, whether there was any point in submitting an application to NHTSA.

After the vehicle emissions certification process of its MY 1986 vehicle was completed on January 13, 1988, Dutcher submitted a written supplement dated February 22, 1988, to the original May 16, 1986 petition. This supplement provided vital information, such as total production output for MYs 1986 and 1987 (11 vehicles for each MY) and EPA certification data (13.8 mpg city, 19.8 mpg highway for a combined fuel economy of 16.0 mpg) that this agency needed to fully analyze the Dutcher petition. The production numbers were updated in Dutcher's July 20, 1988 supplement discussed below. Another supplement dated July 7, 1988, informed NHTSA that the low production was due to problems associated with the Ford 2.9 liter V-6 Ranger truck engine used in the vehicle passing the EPA emissions test requirements and a decision on the part of Ford Motor Company to discontinue supplying Dutcher with the 2.9 liter engine after MY 1988. Dutcher ceased production in October 1987 in order to redesign the vehicle to accommodate the replacement engine, a 3.8 liter, V-6 Buick engine plus CM suspension components. They completed that part of redesign in early 1989. However, it was decided that the new model had to be changed, which necessitated new tooling. The vehicle should be lengthened 6 inches to create additional interior room to increase wheelchair capacity.

The facts in Dutcher's situation are not analogous to those of any late-filing low volume petitioner for which this agency has found "good cause." Moreover, until EPA finished its certification testing in January 1988, Dutcher did not know what alternative standard to request. Dutcher's final city fuel economy was lower than the results of the first test in August 1988. However, under the facts in Dutcher's situation, the agency finds that Dutcher has shown "good cause" for the late filing of its petition.

Classification of Transitaxi as a Passenger Automobile

Due to differences in the definitions used by this agency and the Environmental Protection Agency, the Transitaxi is classified differently by these two agencies. For MYs 1986–1988, the Environmental Protection Agency (EPA) has classified the Dutcher model as a "light duty truck" for emissions compliance due to the model's derivation from existing truck components (40 CFR 86.02–2). However, NHTSA concludes that the Transitaxi is a "passenger automobile" for fuel economy purposes. The Transitaxi is a passenger automobile under the definition in 49 CFR 523.4 since it transports not more than 10 individuals and since it does not meet any configurational or usage criteria for light trucks given in 49 CFR 523.5.

Background Information on Dutcher

Dutcher Motors, Inc., a small company located in San Marcos, California, was chartered in 1984 to manufacture a limited quantity of a single model of special purpose vehicles called Transitaxi. Dutcher incorporates unique design features that facilitate use of the vehicle for handicapped and disabled individuals. The Transitaxi is designed to be used in any business providing shared-ride taxi service, demand response dial-a-ride systems, airport-to-hotel shuttles and/or feeder line service to city buses and rail lines. Dutcher's principal stockholder is Cornelius Dutcher, who resides in San Marcos, California, which is also the location of its present office headquarters and production facility. Dutcher employs approximately nine workers. Dutcher does not control, is not controlled by and is not under common ownership with another manufacturer of passenger automobiles. For model years 1986–1988, Dutcher used Ford engines and other Ford parts, but these components were purchased in arms-length transactions from Ford Motor Company. The components are then installed in the vehicle which has been designed and manufactured by Dutcher. The vehicle also currently has the
largest interior volume index of any passenger car sold in the United States. In its most recent supplement, dated July 20, 1989, Dutcher stated that it only delivered 7 vehicles that were sold in 1986, 3 vehicles in 1987, and 7 vehicles in 1988, all with Ford drivetrain components. The 1986, 1987, and 1988 Dutcher models have Ford 2.9 liter, electronically fuel injected, V-6 engines. Other vehicle specifications are as follows:

- Maximum width: 40.5 inches
- Maximum length: 228 inches
- Maximum height: 76.5 inches
- Curb weight: 4750 pounds
- Interior volume index: 258.1 cubic feet
- Net horsepower: 139

Areas specifically addressed by the agency were technological feasibility and economic practicability of any changes. NHTSA interpreted the word "feasibility" as meaning the financial capability of the manufacturer to improve the fuel economy of its model and which would be compatible with the basic design concepts of Dutcher automobiles. Hence, design changes that would make the cars unsuitable for transporting the wheelchair bound or other handicapped, and eliminating options usually available on cars, such as air conditioning, automatic transmission, power steering, and power windows, were not examined. Such changes to the basic design of the Dutcher could be economically impracticable since they might well significantly reduce the demand for these automobiles, thereby reducing sales and causing significant economic injury to the low volume manufacturer.

**Methodology Used To Project Maximum Feasible Average Fuel Economy Level for Dutcher**

**Baseline Fuel Economy**

To project the level of fuel economy which had been achieved by Dutcher in MY's 1986-1988, the agency considered whether there were technical or other improvements that would have been feasible for these Dutcher vehicles, whether or not the company actually incorporated such improvements in those vehicles. The agency reviewed the technological feasibility and economic practicability of any changes.

NHTSA interpreted "technological feasibility" as meaning that technology which would have been available to Dutcher for use on its 1986 through 1988 model year automobiles, and which would improve the fuel economy of those automobiles. The areas examined for technologically feasible improvements were weight reduction, engine improvements, drive train and transmission improvements, and aerodynamic design. For example, the Transitaxis is designed with a smooth front cowl, flush windows and door handles, and a bottom cover, all of which promote a low drag coefficient. The body is made primarily of fiberglass to reduce the weight of the vehicle. Dutcher states that it is considering several kinds of low-friction, synthetic lubricants. Dutcher's low dynamometer horsepower setting for certification testing, when compared to other small passenger vans and wagons, shows that the Transitaxis has good aerodynamic design equivalent to current industry standards.

**Mix Shift**

Since only one vehicle model exists, the Dutcher corporate average fuel economy is based on the fuel economy of that one model, the Transitaxis, and cannot be averaged with the fuel economy of any other models.

**Weight and Aerodynamic Drag Reduction**

Dutcher stated in its petition that considerable engineering effort had gone into weight reduction of their model and special attention has been given to good aerodynamic design. For example, the Transitaxis is designed with a smooth front cowl, flush windows and door handles, and a bottom cover, all of which promote a low drag coefficient. The body is made primarily of fiberglass to reduce the weight of the vehicle. Dutcher states that it is considering several kinds of low-friction, synthetic lubricants. Dutcher's low dynamometer horsepower setting for certification testing, when compared to other small passenger vans and wagons, shows that the Transitaxis has good aerodynamic design equivalent to current industry standards.

**MY 1986 DYNAMOMETER SETTING COMPARISON**

<table>
<thead>
<tr>
<th>Model</th>
<th>Act. dyn. HP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dutcher Transitaxi</td>
<td>12.5</td>
</tr>
<tr>
<td>Ford Aerostar*</td>
<td>12.2</td>
</tr>
<tr>
<td>GM Astro*</td>
<td>14.4</td>
</tr>
<tr>
<td>Toyota Van*</td>
<td>15.0</td>
</tr>
<tr>
<td>Chrysler Caravan/Voyager*</td>
<td>10.7</td>
</tr>
<tr>
<td>Dodge Colt Vista</td>
<td>9.6</td>
</tr>
<tr>
<td>Nissan Stanza Wagon</td>
<td>9.4</td>
</tr>
<tr>
<td>Mercury Grand Marquis Wagon</td>
<td>12.5</td>
</tr>
</tbody>
</table>

*These vehicles are classified by EPA as light trucks.

**Engine and Drivetrain Improvements**

Because of the low volume of production, it was impractical for Dutcher to consider producing its own engine or drivetrain. Dutcher purchased standard components, or better, for installation in its Transitaxis. In its Transitaxis, Dutcher uses a standard Ford Ranger truck engine and automatic overdrive transmission mounted in transverse configuration. The transmission is a four-speed automatic transmission with lockup torque converter clutch, one of the more efficient transmission designs available. The driveshaft utilizes low friction, ball-type, constant-velocity, universal joints. The rear axle is a standard Ford Bronco axle.

Thus, the only significant opportunity for improvement in these components was as a result of improvements which Ford decided for its own purposes to make in the engine and drivetrain it supplied for Dutcher. Dutcher's role was limited to attempting to modify the drivetrain to meet the emissions requirements.

**Effect of Other Motor Vehicle Standards**

Since any fuel economy effects experienced by Dutcher vehicles as a result of any Federal safety or emissions standards were reflected in the fuel economy values which the vehicles achieved in EPA testing, there are no unaccounted for effects for the agency to consider.

**The Need of the Nation To Conserve Energy**

The agency recognizes there is a need to conserve energy, to promote energy security, and to improve balance of payments. However, as stated previously, NHTSA has tentatively determined that it was not technologically feasible or economically practicable for Dutcher to have achieved an average fuel economy in the 1986-1988 model years above 16.0 mpg. Since Dutcher could not have exceeded 16 mpg, granting an exemption and setting an alternative standard at that level would not have any effect on fuel consumption and would not affect the need of the Nation to conserve energy.

**Proposed Alternative Standard**

Based on the foregoing discussion, this agency has tentatively concluded that it would not have been technologically feasible and economically practicable for Dutcher to improve the fuel economy of its model year 1986-1988 automobiles above an average of 16.0 mpg, that compliance with other Federal automobile standards...
would not have adversely affected achievable fuel economy, and that the national effort to conserve energy would not have been affected by granting the requested exemption and establishing an alternative standard. Consequently, this notice concludes that the maximum feasible average fuel economy for Dutcher in the MYs 1986 through 1988 was 16.0 mpg. Therefore, the agency proposes to exempt Dutcher from the generally applicable standard of 26.0 mpg and to establish an alternative standard for Dutcher of 16.0 mpg for model years 1986, 1987, and 1988.

NHTSA has analyzed this proposal and determined that neither Executive Order 12291 nor the Department of Transportation regulatory policies and procedures apply, because the proposal would not establish a "rule," which term is defined in the Executive Order as "an agency statement of general applicability and future effect." The proposed exemption is not generally applicable, since it would apply only to Dutcher Motors, Inc., as discussed in this notice. If the Executive Order and the Departmental policies and procedures were applicable, the agency would have determined that this proposed action is neither major nor significant. The principal impact of this proposal is that the exempted company would have to pay civil penalties. Since this proposal sets an alternative standard at the level determined to be Dutcher’s maximum feasible level for model years 1986, 1987, and 1988, no fuel would have been saved by establishing a higher alternative standard. The impacts for the public at large will be minimal.

The agency has also considered the environmental implications of this proposal in accordance with the National Environmental Policy Act and determined that this proposal, if adopted, will not significantly affect the human environment. Regardless of the fuel economy of the exempted vehicles, they must pass the emissions standards which measure the amount of emissions per mile traveled. Thus, the quality of the air is not affected by the proposed exemptions and alternative standards. Further, since the exempted passenger automobiles could not have achieved better fuel economy than is proposed herein, granting these proposed exemptions would not affect the amount of fuel available.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must not 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 business 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 comment closing date indicated above for the proposal 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. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information 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 include a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 531
Energy conservation, Gasoline, Imports, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR part 531 be amended as follows:

PART 531—[AMENDED]

1. The authority citation for part 531 would continue to read as follows:


2. Section 531.5(b) is proposed to be amended by adding paragraph (b)(11). The introductory text of paragraph (b) would be republished to read as follows:

§ 531.5 Fuel economy standards.

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

(11) Dutcher Motors, Inc.

<table>
<thead>
<tr>
<th>Model year</th>
<th>Average fuel economy standard (miles per gallon)</th>
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<tbody>
<tr>
<td>1986</td>
<td>16.0</td>
</tr>
<tr>
<td>1987</td>
<td>16.0</td>
</tr>
<tr>
<td>1988</td>
<td>16.0</td>
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Issued on April 11, 1990.

William A. Boehly, Director, Office of Vehicle Safety Standards.

[FR Doc. 90-8912 Filed 4-17-90; 8:45 am]

BILLING CODE 4910-59-M
DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

(Application 90-049)

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit To Field Test Genetically Engineered Tomato Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to Calgene, Inc., to allow the field testing in Yolo County, California, of tomato plants genetically engineered to express an anti-sense endopolygalacturonase (PG) RNA. The assessment provides a basis for the conclusion that the field testing of these genetically engineered tomato plants will not present a risk of introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESS: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologies, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 842, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20762, (301) 436-7612. For copies of the environmental assessment and finding of no significant impact, write Ms. Linda Gordon at this same address. The environmental assessment should be requested under permit number 90-019-01.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

Calgene, Inc., of Davis, California, has submitted an application for a permit for release into the environment, to field test tomato plants genetically engineered to express an anti-sense endopolygalacturonase (PG) RNA. The field trial will take place in Yolo County, California. In the course of reviewing the permit application, APHIS assessed the impact on the environmental release of the tomato plants under the conditions described in the Calgene, Inc., application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment. The environmental assessment and finding of no significant impact, which are based on data submitted by Calgene, Inc., as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. An endopolygalacturonase gene from tomato has been modified to produce anti-sense RNA. The modified gene was inserted in the plant genome, resulting in the inhibition of expression of the endogenous endopolygalacturonase gene. In this field trial, the introduced gene cannot spread to other plants by cross-pollination because the field test plot is a sufficient distance from any sexually compatible plants with which it might cross-pollinate.

2. Neither the modified endopolygalacturonase gene itself, nor the derived anti-sense RNA, confers on tomato any plant pest characteristic. The tomato cultivar (UC82B) from which the endopolygalacturonase gene was obtained is not a plant pest.

3. The anti-sense PG gene does not provide the transformed tomato plants with any measurable selective advantage over nontransformed tomato plants in the ability to be disseminated or to become established in the environment.

4. Select noncoding regulatory regions derived from plant pests have been incorporated into the plant DNA but do not confer on tomato any plant pest characteristics.

5. The vector used to transfer the anti-sense endopolygalacturonase gene to tomato plants has been evaluated for its use in this specific experiment and does not pose a plant pest risk therein. The vector, although derived from a DNA sequence with known plant pathogenic potential, has been disarmed; that is, the genes that are necessary for pathogenicity have been removed.

6. The vector agent, the phytopathogenic bacterium that was used to deliver the vector DNA carrying the anti-sense endopolygalacturonase gene into a tomato plant cell, was eliminated and is no longer associated with a transformed tomato plant.

7. Horizontal movement of genetic material after insertion into the plant genome (i.e., into chromosomal DNA) has not been demonstrated. After delivering and inserting the DNA to be transferred into the tomato genome, the vector does not survive in or on the transformed plants. No mechanism is known to exist in nature to horizontally...
move an inserted gene from a chromosome of a transformed plant to any other organism.  

8. The field test site is small, approximately 1.6 acres.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 et seq.), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1509), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381-50384, August 28, 1979, and 44 FR 51272-51274, August 31, 1979).

Done in Washington, DC, this 13th day of April 1990.

James W. Glosser,  
Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-8998 Filed 4-17-90; 8:45 am]
BILLING CODE 3410-34-M

### Application Summary Table

<table>
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<th>Field test location</th>
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<td>New York State Agricultural Experiment Station, Geneva</td>
<td>02-28-90</td>
<td>Cucumber genetically engineered to express the coat protein gene from cucumber mosaic virus</td>
<td>New York</td>
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<tr>
<td>90-065-01</td>
<td>CannaSeed Corp</td>
<td>03-06-90</td>
<td>Tomato genetically engineered to tolerate the herbicide glufosinate</td>
<td>California</td>
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<tr>
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<td>University of Kentucky</td>
<td>03-06-90</td>
<td>Tobacco genetically engineered to resist tobacco vein mottling virus and tobacco etch virus</td>
<td>Kentucky</td>
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<tr>
<td>90-066-01</td>
<td>Calgene, Inc</td>
<td>03-07-90</td>
<td>Tomato genetically engineered to express a gene that encodes RNA that is anti-sense to an endogenous pectolytic enzyme, and tomato genetically engineered to express a gene involved in the biosynthetic pathway for cytokinin, a plant growth hormone</td>
<td>California</td>
</tr>
</tbody>
</table>

SUMMARY: This amends the notice published in the Federal Register on March 27, 1990 (55 FR 11237) to change the Regional Forester’s list of newspapers.

For further information contact: KJ Silverman, Regional Appeals Coordinator, Pacific Southwest Region, 630 Sansome Street, San Francisco, CA 94111, phone: (415) 708-2553.

The newspaper to be used is as follows:

Pacific Southwest Regional Office

Pacific Southwest Regional Forester decisions: Sacramento Bee, Sacramento, California.


David M. Jay,  
Deputy Regional Forester.

[FR Doc. 90-8978 Filed 4-17-90; 8:45 am]
BILLING CODE 3410-11-M

Stillwater Mining Co. Precious Metals Smelter, Custer National Forest, MT

ACTION: Environmental Impact Statement cancellation notice.

Stillwater Mining Company’s (SMC) of Star Rt. #2, Box 365, Nye, MT, 59061 has withdrawn its proposal for development of a precious metals smelter within SMC’s existing facilities.

The Notice of Intent, published in the Federal Register of Friday, April 14, 1989 (Vol. 54; Pg. #71) is hereby rescinded.
Oil and Gas Leasing; Pike and San Isabel National Forests, Comanche and Cimarron National Grasslands; CO and KS

ACTION: Notice; extension of review period for draft environmental impact statement (DEIS).

SUMMARY: Due to the complexity of issues and because of a number of requests to extend the public comment period I have extended the review for the Oil and Gas leasing DEIS to June 1, 1990. (See 55 FR 9951, Mar. 16, 1990).

DATE: The Draft EIS comment period is extended to June 1, 1990.

ADDRESS: Submit written comments to Jack Weisaling, Forest Supervisor, USDA Forest Service, 1920 Valley Drive, Pueblo, CO 81008. The public may inspect comments received on the DEIS in the Forest Supervisor’s Office in Pueblo, Colorado, weekdays between the hours of 8 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Dan Bishop, Forest Engineer and Minerals Staff Officer, USDA Forest Service, 1920 Valley Drive, Pueblo, CO 81008 (719) 545-8737.

FOR FURTHER INFORMATION CONTACT: Jack Weisaling, Forest Supervisor. [FR Doc. 90-8829 Filed 4-17-90; 8:45 am]

Permit Policy for Outfitting and Guiding

AGENCY: Forest Service, USDA.

ACTION: Notice of interim direction: request for comments.

SUMMARY: The Forest Service is updating agency procedures for issuing permits and assessing fees for outfitting and guiding activities on National Forest System lands. The basic outfitting and guiding policy was originally issued in the form of Interim Directives to Forest Service Manual § 2721.53 which have expired. This policy is being reissued as an Interim Directive to the Forest Service Handbook on Special Uses Administration (FSH 2709.11) not to exceed 10 months in order to maintain program continuity. Once comments have been received and considered, final outfitter and guide policy and procedures will be issued.

DATES: This interim direction is effective April 23, 1990. Comments on this policy must be received in writing by May 18, 1990.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2720), Forest Service USDA, P.O. Box 90690, Washington, DC 20090-9690. The public may inspect comments received on this interim policy in the office of the Director, Recreation Management Staff, room 4229 South Agriculture Building, 14th and Independence, SW., Washington, DC, between the hours of 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: John Shilling, Recreation Management Staff, (202) 392-4240.

SUPPLEMENTARY INFORMATION:

Background and Need

Policy and procedure for issuing and administering permits for outfitting and guiding services have been issued since 1985 as interim direction to Forest Service Manual chapter 2720. The current direction has expired, and there is a critical need to reissue the direction so that Forest Service employees have direction in place to guide them in administering outfitting and guiding services. Therefore the Forest Service is issuing Interim Directives to chapter 30—Fee Determination, and chapter 49—Special Uses Administration of FSH 2709.11, Special Uses Handbook. The direction is being reissued in the handbook because most of it is procedural direction rather than broad policy and because the interim directives have been issued the maximum number of times to the Manual.

Interim Direction

This interim direction will provide continued guidance to National Forest System personnel administering outfitter and guide operations while allowing public comment and eventual adoption of a final directive. The text of the directive has been revised and reorganized to improve clarity and emphasis and to conform to agency directive system policy. For example, the relocation of the direction to the handbook requires issuing portions of the direction in the chapter on fees and the remaining text in the chapter on administration. Moreover, the directives have been reorganized to place all similar subject matter under the same headings, and definitions have been revised to remove procedural direction. Text that is directive but was erroneously coded as a definition has been relocated to other sections. In general, no major changes have been made in the 1984 policy. Four minor substantive changes, however, have been made as follows:

1. The 1984 policy of reducing authorized use if the holder of a priority use assignment failed to utilize at least 85 percent of the assigned amount in any two of the previous three years, is being adjusted to 70 percent in any two of the previous three years, is being adjusted to 70 percent in any two of the previous five years. This change corrects current direction to reflect the original agreement made in 1983 with the outfitter/guide industry as brought to the agency’s attention by representatives of the industry. Review of agency records indicates that the 85 percent figure of the previous policy was an error.

2. The 1984 direction of converting temporary use to priority use is being adjusted from three to two years. This change makes current direction of using two years as a decision point consistent throughout the Interim Directive for consideration of conversion of existing permits from a temporary status, conversion of temporary use to priority use, and assessment of priority use within existing permits.

3. Quality public service depends upon selecting qualified operators to receive permits to conduct outfitting and guiding services. The previous policy stated that when issuing a new permit to an applicant who has two years of acceptable performance, the days assigned are to be priority use days. It was not stated that the acceptable performance was to be in like activities. The agency is modifying the requirement by stating that the acceptable performance must be in activities similar to the proposed use. Thus, two years of acceptable performance operating a horse outfitting business does not qualify the holder for priority use days as a river runner; two years of acceptable performance as a river runner would be necessary.

4. Frequently an outfitted or guided trip involves, travel or occupancy on land which is not part of the National Forest System. A system of discounting the fee to recognize off forest activity was provided in the 1984 direction. This method serves well and will be continued. There is, however, a situation where the discounting method has not achieved an equitable fee. The ferry system of tour ships to Alaska often stop so that passengers may spend some time ashore. Because of the relatively high price of the voyage and the
proportional time spent on National Forest System lands, inordinately high fees to the Forest Service have resulted. Similar situations may occur in other Regions, and a provision has been made that provides Regional Foresters with the authority to recognize these unusual cases and make additional discounts to achieve a fair fee. The use of this provision is expected to be infrequent.

In addition to the preceding changes, the direction has been substantially rewritten in several other areas to remove ambiguity and thus improve clarity. No significant change in direction or procedure is intended. These areas are: Calculation of a service day; fees for educational institutions; and definitions of guiding and outfitting; permittee terminology; and additional capacity.

1. Calculation of Service Day. The previous definition of a service day was:

A service day is a day or part of a day for each individual accompanied or provided services, by a packer, outfitter, guide, leader or instructor. Beginning and ending days of a trip or service period shall be considered as full days. Where supply or drop service alone is performed, the full or fractional days involved multiplied by the number of clients in the party equals service days. Any period of time when clients, individually or in groups, are under the direction, care, or tutelage of a guide/outfitter shall be counted as part of the total service days for fee calculation or management purposes.

This definition has been revised to remove instructions on calculating service days and the wording simplified to read as follows:

Service Day is a day or any part of a day for each individual or client accompanied or provided services, including transportation services, by an outfitter or guide.

Direction for calculating a service day has been moved from definitions to § 37.21—Specific Fee Factors. This removes direction from definitions with no substantive change in direction or procedure.

2. Fees for Educational Institutions. Instructions for calculating fees for educational institutions has been clarified to remove ambiguity about how to treat student payments to schools or outfitters for credit. The direction (sec. 37.21) now reads as follows:

(1) If the program being provided under the permit is recognized for credit toward graduation or a degree in a recognized school system, exclude tuition and other payments made by the clients which are unrelated to the use of National Forest lands and waters.

(2) If the program provided under the permit is for credit toward graduation or a degree, include all payments by the clients for the permitted service.

Again, there is no significant change in direction embodied in this revision.

3. Definitions of "Guiding" and "Outfitting". These definitions have been rewritten. The terms were formerly defined as follows:

Guiding. Includes the provision of assistance such as supervision, protection, education, training, transportation, interpretation, and guiding services. It includes such personal services as leading, teaching, cooking, packing, or otherwise assisting recreationists in their pursuit of a natural resource based outdoor recreation experience.

Outfitting. Includes the provision of equipment, supplies, livestock, and materials. It includes such services as rental of boats, skis, horses, tents, and other equipment or gear.

The new definitions result from a review of the Agency's enforcement of outfitting and guiding activities and clarify that the activity is for financial remuneration or other gain. This revision would make clear that groups such as a YMCA pack trip with a paid staff person, who may need a permit for a recreation event, do not need an additional outfitter/guiding permit to conduct such activities.

The new definition would read as follows:

Guiding: Providing, for pecuniary remuneration or other gain, services or assistance such as supervision, protection, education, training, packing, transportation, subsistence, interpretation, or otherwise assisting individuals or groups in their pursuit of a natural resource based outdoor activity. The term "guide" includes the holders' employees and agents and instructors.

Outfitting: Providing, for pecuniary remuneration or other gain, except through retail sale in the ordinary course of business, any saddle or pack animal, vehicle or boat, tents or camp gear, or similar supplies or equipment. The term "outfitter" includes the holders' employees and agents and instructors.

4. Permittee Terminology. The term "permittee" is no longer used to describe someone who has a permit from the Forest Service. Therefore, in this interim direction, this term has been replaced with the term "holder" which is defined in 36 CFR 251.51. The definition of holder is clarified to read as follows:

(1) Holder. In the context if this section, any applicant who has received a special use authorization to conduct outfitting and guiding.

5. Additional Capacity. An area that is very important to the outfitting and guiding program is the process by which commercial operations may acquire additional capacity or service days. For clarity, it is now stated (§ 41.53c) that, if a current holder of a priority use permit wishes to expand operations, the correct procedure is for them to first apply to receive additional use on an annual basis in the form of temporary use. This is not a change in procedure, and outfitter and guides should note that the procedures for conversion of temporary use to priority use remain unchanged.

The text of the Interim Directives as they are being issued to Forest Service personnel are set forth at the end of this notice. The interim directive will remain in effect for 18 months unless rescinded.

Public comment is invited. The Forest Service published the proposed policy to govern outfitter and guide permits on April 8, 1983, at 48 FR 15296 and gave notice of adoption of the final policy on February 15, 1984, at 49 FR 5779. Those interested in commenting may wish to review those documents to obtain a comprehensive explanation of the basis of the original policy and procedures which are continued in these Interim Directives.

George M. Leonard,
Associate Chief.
FOREST SERVICE HANDBOOK
Washington, DC

FSH 2709.11—Special Uses Handbook

Interim Directive No.
Effective Date: 
Expiration Date: 
Chapter 30—Fee Determination
Posting Notice: This interim directive establishes procedures in FSH 2709.11—Special Uses Handbook for assessing fees for outfitting and guiding activities on National Forest Systems lands. This direction is essentially unchanged from that issued as Interim Directive 58 to FSH 2721.53 which expired July 16, 1988.

30 Outfitter and Guide Fees

37.05 Definitions
See 41.53c for additional definitions
1. Gross Revenue is the total amount received by the holder from clients or customers as payment for goods or services provided by the holder in connection with the outfitted and/or guided National Forest trip.
Includes all revenue from clients or customers from the sale of goods or services provided by the holder, without regard to whether these goods or services are provided while on National Forest System lands or waters or on non-National Forest System lands and waters, and without regard to whether provided during or prior to arrival or after departure from the holder's headquarters or local community.
2. Adjusted Gross Revenue is the gross revenue reduced by either the amount of the holder's costs paid to others for pre- and post-trip transportation and pre- and post-subsistence (prior to arrival or after departure from the holder's headquarters or local community) or the reasonable value of

such services when provided by the holder. Transportation, subsistence, or any other payments made by the holder to others for services, goods, or accommodations provided during the outfitted or guided trip are not deducted.

3. Service Day is a day or any part of a day for each individual or client accompanied or provided services, including transportation services, by an outfitter or guide.

4. Average Adjusted Service Day - Client Charge is the adjusted gross revenue divided by the number of service days actually used.

5. Duration of the Outfitted/Guided Trip is the period of time service is rendered, and begins when the client first comes under the care and supervision of the outfitter or guide, at the holder's headquarters or local community, and ends when the client is released from such care and custody. It is used for the purpose of determining the on- and off-forest discount and the pre-and post-trip transportation and subsistence revenue adjustment.

37.1 Commercial Service Site
For outfitter/guide activities authorized in connection with a commercial public service site, such as a resort, determine fees for the total authorized use by the Graduated Rate Fee System (GRFS) [FSM 2735.14]. Where applicable, require holders under GRFS to pay additionally for site reservation and transportation livestock grazing use.

37.2 Commercial Service, Non-Site
Outfitter/guide activities authorized as a distinct activity, and not as a part of a Forest Service authorized commercial public service business, require payment of fees as described in this section.

37.21 Specific Fee Factors
1. Calculating Service Days. Any full or fractional day the customer receives service shall be considered a full service day. When only supply or drop service to customers is provided, only the day on which the outfitter or guide provides service shall be counted.

2. Duration of the Outfitted/Guided Trip. In calculating either the estimated or final fee, reduce the amount based on the percentage of time the customers occupy National Forest System lands and waters in relation to the total duration of the outfitted trip.

Percent of total time on National Forest Lands and Waters | Fee reduction
--- | ---
Less than 5 percent | 90
5-60 percent | 40
Over 60 percent | None.

The holder must provide trip duration, itinerary, or such other information as may be specified by the authorized officer to support a fee based for service days on off-forest use. In unusual circumstances, Regional Foresters may provide for additional discounts when in the public interest, due to minimal use of NFS lands with the reason the majority of the trip is not directly for the use of NFS lands and waters.

3. Fees For Nonprofit Organizations. If the holder requires the "customer" or client to make a donation or grant as a condition of receiving the service, include the amount of the donation or grant in the fee calculation. Do not consider donations or grants made voluntarily by customers to support the programs for the benefit of the holder.

4. Fees For Educational Institutions. a. If the program being provided under the permit is recognized for credit toward graduation or a degree in a recognized school system, exclude tuition and other payments made by the students which are unrelated to the use of National Forest lands and waters.

b. If the program provided under the permit is not recognized for credit toward graduation or a degree, divide the final fees by the students for the permitted service.

5. Fees for Additional (temporary) Use. If, during the operating season, a holder proposes to conduct activities in addition to that initially authorized, the holder must request in advance an amendment to the annual itinerary or operating plan. If capacity is available, approve the request for temporary additional use.

6. Fee for Non-Use. In calculating the final fee, collect a fee for unapproved non-use (authorized priority or temporary use which was not properly requested of the authorized officer to be waived). A fee will be assessed unless use was authorized by the permit, operating plan, or annual itinerary was waived sufficiently in advance of the planned use to allow requestors to make other arrangements.

7. Fee for Site Reservation. a. Require payment of fees for the occupancy of National Forest System sites reserved for use by the permit holder during the permitted period of occupancy. Examples may include, but are not limited to, base and drop camps, caches, corrals and loading facilities, boat launches, and heliports. The minimum annual fee of $100 for each reserved site every 3 years based on the Implicit Price Deflator Index, using 1984 as a base year.

b. Do not prorate site reservation fees for use periods of less than a year.

c. Do not authorize refunds or credits for site reservation fees.

d. Regional Forester may establish higher fees, if necessary to obtain fair market value.

8. Fee For Grazing Livestock. Assess livestock grazing fees when holders' transportation animals are authorized to graze while on the National Forest. Assess no such fee when the animals travel on the National Forest but are not authorized to graze. Charge fees as prescribed within annual Interim Directives to FSM 2238. Do not make refunds or give credits for planned and authorized, but unused transportation livestock grazing use.

9. Minimum Fee for outfitting/guiding on National Forest System lands is $50 annually per permit, which was established in 1984. Beginning with fees due after March, 1990, adjust the minimum fee every 3 years based on the Implicit Price Deflator Index, using 1984 as a base year.

37.22 Estimated Fee
Prior to the season, calculate the total estimated annual fee (including site reservation, non-use, and transportation livestock grazing) on a fee determination statement (FSM 2718). Consult with the applicant/holder to estimate the anticipated adjusted gross revenues. Use financial and related documents furnished by the applicant including records of previous years' business activity, planned customer rate schedules, and amount of use to be authorized. Calculate the fee based on three percent (3 percent) of that amount. Retain documents use for fee calculations in the case folder. Bill the total estimated fee in advance of the use either in full before the start of the season or periodically during the season of operation as follows:

1. When the total annual estimated fee exceeds $300, but is less than $2500, collect one half of the amount in advance and the remainder by mid-season.

2. When the estimated annual fee exceeds $2500, collect one third in advance and the remainder in two equal payments during the season.

37.23 Final Fee
After the operating season, at a date to be established by the authorized officer, the holder shall submit financial and actual use records on which the final permit fee will be based. This calculation is a reconciliation between the previously paid estimated fee and a final amount due based on actual use and revenue. The holder must submit, at the time of the initial permit application, one of the following options to be used in calculating the final fee during the full period of the permit:

a. Option A—based on average adjusted service day client charge using the schedule of rates.

**SCHEDULE OF RATES**
(Option A)

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<th>Outfitter's average adjusted service-day client charge</th>
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<td>$2.25</td>
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**41.53b Policy**

Provide quality outfitting and guiding opportunities and experiences. Recognize that outfitters and guides are an important link between the Forest Service and National Forest recreationists.  

1. Work with State and local authorities, outfitters, and outfitter/guide organizations to identify and halt "pirate" outfitter operations that are those operating without permits. Follow procedures in FSM 5300 in investigating and managing unauthorized outfitter cases.  

2. Except for temporary structures or permanent improvements with limited value, such as corraled, tent frames, shelter and so forth, permit no development or permanent improvements on National Forest System lands for outfitter and guide services.

**41.53c Definitions**

See 3705 for additional definitions.  

1. **Guiding.** Providing, for pecuniary remuneration or other gain, services or assistance such as supervision, protection, education, training, packing, transportation, subsistence, interpretation or otherwise assisting individuals or groups in their pursuit of a natural resource based outdoor activity. The term "guide" includes the holders' employees and agents and instructors.  

2. **Holder.** In the context of this section, any applicant who has received a special use authorization to conduct outfitting and guiding.  

3. **Outfitting.** Providing, for pecuniary remuneration or other gain, except through retail sale in the ordinary course of business, any saddle or pack animal, vehicle or boat, tents or camp gear, or similar supplies or equipment. The term "outfitter" includes the holders' employees and agents and instructors.  

4. **Priority Use.** A Forest Service commitment to the holder of a permit for outfitting and guiding to give priority consideration to granting the holder a specific amount of priority use.  

5. **Service Day.** A day or any part of a day in which one or more individuals are accompanied or provided services, including transportation services, by an outfitter or guide.  

**41.53d When Permits Are Required**

a. For outfitters and guides operating under the 1986 policy of yearly permits, assign the initial amount of priority use based on the average of the highest two years of actual annual use that was authorized under permit during the previous two years.  

b. Establish the amount of priority use in terms of service days, the season, months, weeks, days, people-at-one-time (PAOT), or like time factors which may apply, the nature of the permitted service or activity (e.g., hunting, white water rafting, sheep hunting, fish pack trips, etc.), the resource area (wilderness, wild river, management unit, and so forth) within which the service or activity is to be authorized, the various modes of transportation to be used, and such other special factors necessary to define the quality and scope of the activity.  

c. Where recreation use levels are planned and managed in terms of launches and people per launch, camps and people per camp, or trips and people per trip, establish priority use in terms of service days, but also specify numbers of launches, campsites, and/or trips authorized with those service days.
41.53g Assignment and Management of Temporary Use

1. Assigning Temporary Use. If capacity is available, temporary use of the nature and in the amounts indicated in applicable forest land and resource management plans may be authorized annually. Plans do not address the subject, assignments shall be at the discretion of the authorized officer. A temporary use assignment does not commit the Forest Service to the authorized use in the future provided that a buyer has not purchased the temporary use for purposes of resale.

2. Eligible Applicants. All qualified applicants including institutional and semi-public entities and holders of priority use permits are eligible to receive temporary use assignments. If a current holder of a priority use permit wishes to expand operations the correct procedure is for them to first apply to receive additional use on an annual basis in the form of temporary use.

3. Conversion to Priority Use. Subject to applicable forest plans and to the holder otherwise being eligible, temporary use permitted for at least two years may be converted to priority use. The amount of temporary use that may be assigned as priority use shall be based on the previous two-year average temporary permitted amount that was actually used. See also the limitation on conversion in paragraph 2b of § 41.53h.

41.53h Applications and Award of Permits

1. Applications. Provide applicants with form FS 2700-3, Special Use Application, to describe the services to be performed, the number of service days, lands to be occupied, modes of transportation, season of use, scheduling, and so forth. Application procedures established in 36 CFR 251.54 are applicable to outfitter/guide applications. The procedures/requirements of FSM 2712 regarding special use applications are also applicable.

2. Change of Ownership. a. If a change of ownership is being considered, the holder must arrange for the prospective new owner to meet with the authorized officer to discuss the past operations and future use prior to concluding the sale or applying for a new permit. Inform both parties that a permit is not allowed to retain the permit or “secure” the sale with the permit by using it as collateral. Inform both parties that the purchaser must demonstrate to the satisfaction of the authorized officer an ability to conduct satisfactory outfitting and guiding operations.

b. The relinquishment submitted by the seller and the applicant submitted by the buyer must be submitted simultaneously (Form FS 2700-3a) and accompanied by properly executed documents showing a bona fide conveyance of a substantial proportion of equipment or other assets previously used in the business and, if the business is based on private land, showing a bona fide conveyance of a substantial proportion of the private land. Normally, reissue permits to purchasers of currently permitted businesses with assigned priority use. No part of an outfitter's or guide's assigned priority use days may be sold alone. Should the sale of the assets previously used in the business fall through or otherwise revert to the original owner, the authorized officer shall normally reissue the permit with priority use associated with the sale to the seller, upon presentation of properly executed relinquishment/application or court order. Do not place the Forest Service in the position of adjudicating disputes between private parties.

c. Temporary use may not be assigned to the buyer as priority use in the new permit.

d. Purchasers of currently permitted businesses with assigned temporary use receive no special consideration for available permits.

3. New Permits. As a result of the following situations, opportunities for providing additional outfitting/guiding services may occur:

a. Increased allocation, capacity or public need identified through forest planning.

b. An existing permit is terminated or not reissued.

c. There is a reduction of priority use resulting from failure of a holder or holders to use their permitted priority use.

d. Competitive interest in an area, unit, or activity arises where no previous authorized use exists.

e. There is an interest in providing outfitting and guiding services in an area, unit, or activity where no previous outfitter/guide use was authorized, but competitive interest is lacking at this time.

Conduct an environmental analysis on any application for a permit in accordance with procedures in FSH 1080.15.

For situations fitting paragraphs (a) through (d) of this section, normally invite applications from all parties with an expressed interest.

When determining the best qualified applicants to receive new permits, consider past experience in and knowledge of the general area, financial capability, economic viability of existing holders, past performance record, return to the Government, and other appropriate factors.

In issuing the new permit, classify the use as priority use if the selected applicant has a two-year record of acceptable performance that is similar to the proposed use. Except in the case of acquisition of an existing operation and its assigned priority use days, treat holders of existing operations who wish to expand, as applicants for temporary use under § 41.53g. For a selected applicant with no previous record, classify the use as temporary and if appropriate, convert to priority use after two consecutive years of acceptable performance under the permit.

For situation (e), document the determination of no competitive interest then issue a permit to the first qualified applicant.

In issuing the permit, classify authorized use as temporary until the holder has performed acceptably for two consecutive years.

41.53i Reductions

1. Priority Use. Amendments for revisions of Forest plans may direct a level of outfitting/guiding use below present priority use levels. In such cases, the authorized officer has three options available after consultation with outfitters, State and local agencies, and other interested parties:

a. To request voluntary reductions,

b. To make proportionate reductions for all holders,

c. To invite applications for the purpose of selecting the most qualified applicant(s) to provide reduced numbers of service days.

Limit applications to current priority use holders.

2. Number of Outfitters/Guides. A forest plan may conclude that there are too many outfitters/guides in the area, unit, or activity. In such cases, the authorized officer shall request voluntary reductions in the number of outfitters/guides.

When determining the best qualified applicants to receive permits, consider past experience in and knowledge of the general area, financial capability, economic viability of existing holders, past performance record, return to the Government, and other appropriate factors.
Permit Preparation and Conditions of Use

1. Use the appropriate standard permit clauses in FSH 2709.11.
2. Issue priority use permits for periods of up to 5 years and, to the extent possible, to coincide with dates following scheduled revisions of the forest plan. Issue temporary use permits for periods not to exceed one year.
3. Issue permits for temporary or priority use under the authority of the Organic Administration Act of June 4, 1897, only on form FS 2700-4, Special Use Permit.
4. Require an operating plan for the period of the permit and approval of an annual itinerary as a provision of permits.
5. In the permit, enter the total number of service days in each use category. Specify in permits, operating plans, and annual itineraries all of the various modes of transportation authorized. Show amounts and class of use (priority or temporary). If applicable, enter the number of launches, and people per launch, or camps and people per camp, or trips and people per trip associated with priority or temporary use in addition to the service day amounts.
6. For applicants who have no or limited record of past performance, temporary use permits may be issued annually for two consecutive years to provide a performance evaluation period. Renew the permit for a second year unless under the first year the holder evidences either a basic or a willful failure to comply with terms and conditions of the permit.
7. Indicate in the permit the amount of transportation livestock use authorized in connection with the outfitting/guiding activity and specify if the livestock may graze. Do not issue a separate transportation livestock use permit. Require the holder to record and report the amount of transportation livestock grazing use which actually occurred under the outfitting/guiding permit. Report use in the annual grazing statistical report (FS 2200—j); however, do not report occupancy by animals which were not authorized to graze.
8. Establish plans of use of specific campsites or other occupancy sites in permits, operating plans, or annual itineraries. When campsites use is not specified, camp use may be shown as undesignated and unreserved.
9. Establish fees based on FSH 2709.11, Chapter 30—Fees for Outfitters and Guides.
10. Require holders to provide reasonably accurate information through an actual use report within 30 days of the close of the operating season.
11. Require holders to maintain accounting records satisfactory to the Forest Service, to retain these records for a minimum of five years, and to have them available for Forest Service review and audit.

Permit Administration

During the course of the season of use, periodically monitor permitted operations to verify compliance with permit provisions.
1. Performance Evaluation. Permit holders with assigned priority use must have annual performance evaluations as defined in this section. Authorized officer must ensure that temporary permit holders comply with terms and conditions of the permit but do not have to follow the evaluation procedures of this section.
   a. Recognize three different performance levels: Acceptable, Probationary, and Unacceptable.
   b. Forest Supervisors shall develop performance review standards for inclusion in each permit and/or operating plan in consultation with District Rangers, permit holders, outfitter/guide licensing agencies, advisory councils, and other State and other Federal land managing agencies. Important considerations in the evaluations are the degree of compliance with conditions of the permit, operating plans, and itineraries, customer satisfaction, and the care and protection of the resource. Complete the review and rating at the end of each operating season and advise the permit holder of the findings. Ratings are confidential between the Forest Service and the holder, to the extent allowed by law and regulation.
   c. A holder given a probationary performance rating qualifies for a permit period not to exceed one year. Permits with remaining periods of more than one year remaining shall be so amended. If a holder given a probationary rating operates at the probationary or unacceptable level during the following year, the authorized officer shall terminate the permit and deny any future permit.
   d. An unacceptable performance rating shall result in immediate permit suspension or revocation as appropriate to the circumstances.
2. Subletting of Use. Do not approve requests to assign all or part of authorized use to others (subletting). If a holder is unable to unwilling to provide the permitted services, terminate or reduce the authorization, and if appropriate, assign the amount of use to others in accordance with procedures in § 41.53h.
3. Applicants must demonstrate financial and technical capability to fulfill the terms of the permit.
4. A temporary use permit may be issued for either (a) one trip or (b) a duration of one year or less when the use involves several trips.
5. Do not assign priority use to institutional or semi-public holders.
6. Require an operation plan for full season temporary use permits issued for continuing intermittent use. A plan may also be necessary for single-trip permits if in the judgment of the authorizing officer the nature, scope, and complexity of the trip merits an operating plan to ensure public safety and resource protection.
7. Documented performance evaluation as described in § 41.53k is mandatory.
8. Establish fees based on FSH 2709.11, Chapter 30—Fees for Outfitters and Guides.

Permits for Institutional and Semi-Public Outfitting and Guiding

Permits are issued to institutional and semi-private outfitting and guiding applicants with a definite basis rather than as a means of implementing forest plan decisions and objectives. Schedules and services may fluctuate from season or year to year as may the program needs of the applicant. Applicants include a variety of membership or limited constituency institutions such as religious, conservation, youth, fraternal, service club, and social groups; educational institutions such as schools, colleges and universities; and similar common interest organizations and associations. This category also includes applicants who operate commercially on a limited, intermittent, or irregular basis in providing service to selected customer clientele rather than to the public at large.
1. Issue temporary use permits when the use can be accommodated without causing unacceptable resource impacts and is in the public interest. The permitted activities must be consistent and compatible with applicable laws, regulations, and forest plans.
2. Authorize outfitting and guiding activities conducted by institutional or semi-public groups without regard to whether a fee, charge, or other consideration is collected from the individual participants. Fees, charges, or donations are not factoring in establishing permit fees, not in determining whether or not to authorize the use.
3. Applicants must demonstrate financial and technical capability to fulfill the terms of the permit.
4. A temporary use permit may be issued for either (a) one trip or (b) a duration of one year or less when the use involves several trips.
5. Do not assign priority use to institutional or semi-public holders.
6. Require an operation plan for full season temporary use permits issued for continuing intermittent use. A plan may also be necessary for single-trip permits if in the judgment of the authorizing officer the nature, scope, and complexity of the trip merits an operating plan to ensure public safety and resource protection.
7. Documented performance evaluation as described in § 41.53k is mandatory.
8. Establish fees based on FSH 2709.11, Chapter 30—Fees for Outfitters and Guides.

CIVIL RIGHTS COMMISSION

Connecticut Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee to the Commission will be convened at 1:30 p.m. on Thursday, May 10, 1990, in the second floor "Function Room" of Hartford City Hall, 550 Main Street, Hartford. The purpose of the meeting is to orient new members, report on the Committee’s involvement in an April 6-7, 1990 Yale Law School international symposium on the crises facing refugees in the 1990s, and plan a new project for 1990.

Persons desiring additional information or wishing to address the Committee during the meeting should contact the Chairperson, Mr. J. Echols (203/232-2724) or John I. Binkley, Director of the Eastern Regional Division (202/532-5264; TDD 202/376-8117). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Eastern Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the Rules and Regulations of the Commission.
Rhode Island Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 9 a.m. and adjourn at 11 a.m. on May 1, 1990, at the Marriott Hotel, Charles & Orms Street, Providence, R.I. 02904. The purpose of the meeting is to (1) discuss the status of the Commission, (2) to hear a report on Civil Rights progress and/or problems in the State; and (3) to plan a project for Fiscal Year 1990.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson David Sholes, (401/463-3600) or Bobby Doctor, CCR staff at (202) 523-5264; or TDD (202) 376-8127. Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the regional division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.


Wilfredo J. Gonzalez, Staff Director.

BILLING CODE 6335-01-M

Texas Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that the Texas Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 4 p.m., on May 17, 1990, at the Driskill Hotel, 604 Brazos, Austin, Texas 78701. The purpose of the meeting is to discuss civil rights issues in Texas and plan future Advisory Committee projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson, Adolfo Canales or Philip Montez, Director of the Western Regional Division (213) 894-3437, (TDD 213/894-0506). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.


Wilfredo J. Gonzalez, Staff Director.

BILLING CODE 6335-01-M

Tennessee Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission will convene at 2 p.m. and adjourn at 5 p.m., on May 17, 1990, at the Vanderbilt Law School, Room 145, 21st and Grand Avenue, in Nashville. The purpose of the meeting will be to review current Committee projects and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, James F. Blumstein, or William F. Muldrow, Civil Rights Analyst of the Central Regional Division, (816) 426-5253, (TDD 816/426-5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.


Wilfredo J. Gonzalez, Staff Director.

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census


AGENCY: Bureau of the Census.

ACTION: Notice of availability.

SUMMARY: There is now available from the Bureau of the Census a document entitled: "Technical Operational Plans for Coverage Measurement and Other Adjustment-Related Activities of the Bureau of the Census for the 1990 Decennial Census of Population and Housing." This document describes data collection and investigatory activities to be undertaken by, or on behalf of, the Bureau of the Census concerning the 1990 decennial census of population and housing. Dates and operations in this document represent the current state of planning of the Bureau of the Census. All depend upon the current planned schedule of activities for the 1990 decennial census of population and housing being met, and the current planned schedule of activities for the 1990 post-enumeration survey being met. This plan may be revised, as circumstances warrant, with respect to the specific projects it proposes to undertake the scheduling of specific projects, whether included here or decided upon at a later date, the details of activities within all projects, as well as the scheduling of activities within all projects.

Copies of these plans are available upon request to the Director, Bureau of the Census, Washington, D.C. 20233.

Dated: April 12, 1990.

Barbara Everitt Bryant,
Director, Bureau of the Census.

BILLING CODE 3510-07-M

Bureau of Export Administration

Semiconductor Technical Advisory Committee et al.; Closed Meetings

Semiconductor Technical Advisory Committee

Federal Register Citation of previous announcement: 55 FR 11416 March 28, 1990.

Previously announced date of meeting: April 19, 1990, room 1617-F, 9 a.m. and changed to April 17, 1990. Changes in the meeting: Cancelled.

Materials Technical Advisory Committee


Previously announced date of meeting: April 17, 1990, room 1059; 10:30 a.m. Changes in the meeting: Cancelled.
Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

**Title:** Project License Procedure.  
**Form Number:** Export Administration Regulations, § 773.2(c).  
**Type of Request:** Extension of the expiration date of a currently approved collection.  
**Burden:** 80 respondents; 241 reporting; recordkeeping hours. Average time per respondent is 3 hours.

**Needs and Uses:** The Project License Procedure was developed to provide a single license for the export of commodities and/or technical data needed for large-scale overseas operations. It eliminates the necessity for the filing and processing of numerous individual export license applications.

**Affected Public:** Businesses or other for-profit institutions; small business or organizations.

**Frequency:** On occasion.

**Respondent’s Obligation:** Required to obtain or retain a benefit.

**OMB Desk Officer:** Marshall Mills, 395-7340.

**Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 6622, 14th and Constitution Avenue, NW, Washington, DC 20230.

**Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208 New Executive Office Building, Washington, DC 20503.**

Dated: April 12, 1990.  
Edward Michals,  
Departmental Clearance Officer, Office of Management and Organization.

**BILLING CODE 3510-DT-M**

Foreign-Trade Zones Board  
[Docket 7-90]

**Foreign-Trade Zone 138—Franklin County, OH; Application for Subzone Wascator Washing Machine Plant, Richwood, OH**

**Public comment period for the above case:** (55 FR 1772, 3/5/90), involving a proposed special-purpose subzone for the commercial washing machine plant of Wascator Manufacturing Company in Richwood, Ohio, is extended to May 15, 1990, to allow interested parties additional time in which to comment on the proposal.

**Comments in writing are invited during this period. Submissions shall include 5 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 2855, 14th and Pennsylvania Avenue NW., Washington, DC 20230.**

**Dated:** April 11, 1990.  
John J. Da Ponte, Jr.,  
Executive Secretary.  
[FR Doc. 90-9031 Filed 4-17-90; 8:45 am]

**BILLING CODE 3510-DW-M**

International Trade Administration  
[A-569-029]


**Agency:** International Trade Administration, Import Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** In response to requests by respondents and importers, the Department of Commerce is conducting an administrative review of the antidumping finding on fishnetting of man-made fibers from Japan. The review covers three manufacturers/exporters of this merchandise to the United States during the period June 1, 1987 through May 31, 1988. The review indicates the existence of dumping margins for two of the manufacturers/exporters: Amikan Fishing Net Mfg. Co. (Amikan) and Benny Toyama Corp. (Benny Toyama). The third respondent, Hakodate Seimo Sengu Co., Ltd. (Hakodate)/Mitsui and Company, Ltd. (Mitsui), exclusively exported salmon gill netting, which is no longer subject to this antidumping finding.

We used best information available for Amikan and Benny Toyama because they failed to respond or to provide an adequate response to our requests for information for this administrative review. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** April 18, 1990.

**FOR FURTHER INFORMATION CONTACT:** Gary Bettger or Rick Herring, Office of Countervailing Investigations, International Trade Administration, U.S. Department of Commerce, Washington, DC 20224; telephone: (202) 377-2239 or 377-3530.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 30, 1988, the Department of Commerce (the Department) published in the Federal Register (53 FR 10264) the final results of its last completed administrative review covering the period June 1, 1980 through May 31, 1986, for the antidumping finding on fishnetting of man-made fibers from Japan (37 FR 11560, June 9, 1972). The preliminary results of the antidumping duty administrative review covering the period June 1, 1986 through May 31, 1987, were published on September 23, 1988 (53 FR 79713). The final results of that administrative review have not yet been published.

Respondents and importers requested in accordance with the regulation then in effect, § 353.93(a)(1) of the Commerce Regulations, that we conduct an administrative review of the finding for the period June 1, 1987 through May 31, 1988. We published a notice of initiation of antidumping duty administrative review on July 22, 1988 (53 FR 28423). The Department is conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the 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 1301 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.

Imports covered by this review are shipments of fishnetting of man-made fibers from Japan. This merchandise is currently classifiable under HTS items 5608.11.00 and 5608.90.10. Prior to 1989, such merchandise was classifiable under items 355.4520 and 355.4530 of the Tariff Schedules of the United States Annotated. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

On December 29, 1986, the International Trade Commission (ITC) published its determination that an industry in the United States would not be materially injured or threatened with material injury, nor would the establishment of an industry in the United States be materially retarded, by reason of imports of salmon gill fishnetting of man-made fibers from Japan covered by the antidumping finding if that portion of the finding concerning salmon gill fishnetting were to be revoked (51 FR 49497). The Department determined in the final results of a previous review of this finding (53 FR 10264, March 30, 1988) that the effective date of the renovation of the portion of the finding applicable to salmon gill fishnetting is December 29, 1986, the date that the ITC's decision was published in the Federal Register.

Preliminary Results of the Review

Amikan

In their responses to our questionnaire of August 15, 1988, and deficiency letter of December 7, 1989, Amikan did not provide us with the cost information necessary for making adjustments for physical differences in the merchandise to be compared. (Because of their limited number of sales transactions, Amikan was not required to submit a response on computer diskette.)

Benny Toyama

Benny Toyama responded to the Department's original August 15, 1988 questionnaire on October 6, 1988, and October 23, 1988. However, Benny Toyama did not respond to our deficiency letter of December 7, 1989, in which we asked the company, among other things, to detail their charges and selling expenses, and to provide the costs needed to calculate adjustments for physical differences in merchandise. The Department received no written request from Benny Toyama for an extension to submit the response. In addition, Benny Toyama did not provide their sales responses on computer diskette. In our December 7, 1989, deficiency letter we requested that Benny Toyama place their sales response for this review on computer diskette, in accordance with 19 CFR 353.31(e)(3) of the antidumping regulations. As a result of our review, we conclude that Benny Toyama did not provide any response to our additional inquiries stating that they would not submit any sales information available to determine the dumping margins applicable in this review.

Hakodate/Mitsui

Our review was initiated on Mitsui with respect to its sales of fishnetting manufactured by Hakodate. In a letter dated October 7, 1988, Mitsui responded that they made no shipments of fishnetting other than salmon gill fishnetting during the review period.

Since neither Amikan nor Benny Toyama provided adequate responses, the Department used the best information available to determine the margins of dumping applicable in this review. For both firms, the Department used as best information available the highest rate published in the final results of its last completed administrative review of this finding (53 FR 10264, March 30, 1988) covering the period June 1, 1983 through May 31, 1984. (In accordance with 19 U.S.C. 1977e; 19 CFR 355.37.) During the review period, Hakodate/Mitsui had no shipments of the subject merchandise. Therefore, we have assigned them the rate applicable for the last period in which there were shipments, which was established for the 1982/1983 administrative review period. As a result of our review, we preliminarily determine the dumping margins for the review period of June 1, 1987 through May 31, 1988, to be:

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<tr>
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<tr>
<td>Benny Toyama</td>
<td>18.30</td>
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<tr>
<td>Hakodate/Mitsui</td>
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</tbody>
</table>

The Department will issue appraisement instructions concerning each manufacturer/exporter directly to the Customs Service upon completion of this administrative review. The following deposit requirements will be effective upon publication of our final results of this administrative review for all shipments of fishnetting of man-made fibers from Japan that are entered, or withdrawn from warehouse, for consumption on or after that publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for any shipments of this merchandise manufactured or exported by the remaining known manufacturer/exporters not covered in this review will continue to be at the latest rate applicable for each of those firms (49 FR 18339, April 30, 1984; 53 FR 10264, March 30, 1988); (2) the cash deposit rate for the companies included in this notice will be that established in the final results of this administrative review; and (3) no cash deposit will be required for any future entries of this merchandise from a new producer and/or exporter not covered in this administrative review, whose first shipments occurred after May 31, 1988, and who is unrelated to any reviewed firm or any previously reviewed firm. This is in accordance with our practice of not using the most recently reviewed rate as a basis for a cash deposit for new shippers when we have based that rate on best information available. Zero was the highest rate in a prior review for a producer with an acceptable response (53 FR 10264, March 30, 1988). The deposit requirements, when imposed, shall remain in effect until publication of the next administrative review.

Public Comment

In accordance with § 353.38 of the Department's regulations, case briefs must be submitted in at least ten copies to the Assistant Secretary for Import Administration no later than 30 days after the date of publication of this notice in the Federal Register, and rebuttal briefs no later than 37 days after the date of publication. In accordance with § 353.38(b) of the Department's regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Such a hearing will be

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In response to requests by respondents, the Department of Commerce is conducting an administrative review of the antidumping duty order concerning fishnetting of man-made fibers from Japan. The review covers three manufacturers/exporters of this merchandise to the United States during the period June 1, 1988 through May 31, 1989. The review indicates the existence of dumping margins for two of the manufacturers/exporters: Benny Toyama Corp. (Benny Toyama) and Hakodate Seimo Sengu Co., Ltd. (Hakodate). The third respondent, Hakodate Mitai and Company, Ltd. (Mitsui), exclusively exported salmon gill netting, which is no longer subject to this antidumping finding.

We used best information available for Benny Toyama and Hakodate because they failed to respond or to provide an adequate response to our requests for information for this administrative review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATES: April 18, 1990.


SUPPLEMENTARY INFORMATION:

Background

On March 30, 1988, the Department of Commerce (the Department) published in the Federal Register [53 FR 10264] the final results of its last completed administrative review covering the period June 1, 1980 through May 31, 1986 for the antidumping finding on fishnetting of man-made fibers from Japan [37 FR 11560, June 9, 1972]. The preliminary results of the antidumping duty administrative review covering the period June 1, 1985 through May 31, 1987, were published on September 23, 1988 [53 FR 37013]. The final results of that administrative review have not yet been published.

Respondents and an importer, Jovanovich Supply Corporation (Jovanovich), requested in accordance with § 353.22(a)(1) of the Department's regulations that we conduct an administrative review of the finding for the period June 1, 1988 through May 31, 1989. We published a notice of initiation of antidumping duty administrative review on July 25, 1989 [54 FR 30915].

Originally, a fourth company, Amikan Fishing Net Mfg. Co. (Amikan), was included in this administrative review. However, after the notice of initiation was published, the request for administrative review on behalf of Amikan was withdrawn by Jovanovich. The Department therefore published in the Federal Register on October 17, 1989, a "Partial Termination of Antidumping Duty Administrative Review" with respect to Amikan [54 FR 42533]. The Department is conducting the administrative review for the three remaining manufacturers/exporters in accordance with section 751 of the Tariff Act of 1930, as amended (the 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, 1988, 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.

Imports covered by this review are shipments of fishnetting of man-made fibers from Japan. This merchandise is currently classifiable under HTS items 5008.11.00 and 5008.90.10. Prior to 1989, such merchandise was classifiable under items 355.4520 and 355.4530 of the Tariff Schedules of the United States Annotated. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

On December 29, 1986, the International Trade Commission (ITC) published its determination that an industry in the United States would not be materially injured or threatened with material injury, nor would the establishment of an industry in the United States be materially retarded, by reason of imports of salmon gill fishnetting of man-made fibers from Japan covered by the antidumping finding if that portion of the finding concerning salmon gill fishnetting were to be revoked [51 FR 46947]. The Department of Commerce determined in the final results of a previous review of this finding [53 FR 10264, March 30, 1988] that the effective date of the revocation of the portion of the finding applicable to salmon gill fishnetting is December 29, 1986, the date that the ITC's decision was published in the Federal Register.

PRELIMINARY RESULTS OF THE REVIEW

Benny Toyama

The Department sent the questionnaire for this review to Benny Toyama on October 10, 1989. In a letter dated October 26, 1989, Benny Toyama requested that they not be required to submit their sales response in computerized form. On October 31, 1989, we sent Benny Toyama another letter stating that, for this review, we require that the response be placed on computer diskette (in accordance with 19 CFR 353.31(e)(2)) of the antidumping duty regulations). In a letter dated November 18, 1989, Benny Toyama stated that it would not submit any response on computer diskette and asked to be allowed to submit a response in written form instead. Upon a further request by the Department, Benny Toyama sent a letter dated January 29, 1990, stating that they were not in a position to submit their response on diskette. The Department has not received responses.
in any form from Benny Toyama for this review.

Hakodate

Hakodate responded to our questionnaire dated October 10, 1989. However, the company did not respond to our deficiency letter of February 2, 1990, in which we asked them, among other things, to detail costs needed to calculate adjustments for physical differences in merchandise. Additionally, Hakodate's questionnaire response was not provided on computer diskette as requested in our letter of October 31, 1989. In a letter dated February 2, 1990, the Department, in accordance with 19 CFR 353.31(a)(3) of the antidumping regulations, requested again that Hakodate submit its sales data on computer diskette due to the large number of transactions which appeared to have taken place during this review period. The Department allowed Hakodate until February 26, 1990, to respond to the deficiency letter in the format requested. In a response dated February 28, 1990, Hakodate stated that it would be burdensome to change all of their internal records to computerized format. On March 8, 1990, the Department clarified that it was merely requesting only that information which was previously submitted be placed on computer diskette. One final extension was given until March 19, 1990, for Hakodate to comply. No response was received from Hakodate regarding the Department's March 8, 1990 letter.

Hakodate/Mitsui

In the initiation notice for this review (54 FR 30915, July 25, 1989), the Department indicated that it was also initiating a review with respect to Mitsui. However, the request for review concerned sales by Mitsui of fishnetting manufactured by Hakodate. Therefore, the initiation of notice should have stated that a review was being initiated for Hakodate/Mitsui, not Mitsui. In a letter dated November 30, 1989, Mitsui responded that they made no shipments of fishnetting during the review period other than salmon gill fishnetting, which is no longer subject to this antidumping finding.

The antidumping law requires the Department to use the best information available whenever a party does not produce requested information in the format required. This is necessary to administer the antidumping law effectively. In general, parties must submit their responses to our questionnaires on computer tape or diskette in order to facilitate our analysis of their data. Occasionally, we grant an exemption from the computer tape or diskette requirement, but only when the volume of sales is extremely small. When the volume of sales is large, as in this review, it is extremely difficult for us to analyze the sale response effectively without computerized data.

Since neither Benny Toyama nor Hakodate provided adequate responses, the Department used the best information available to determine the margins of dumping applicable in this review. For both firms, the Department used as best information available the highest rate published in the final results of its last completed administrative review of this finding (53 FR 10264, March 30, 1988) covering the June 1, 1980 through May 31, 1986 period (in accordance with 19 U.S.C. 1677c; 19 CFR 355.37). During the review period, Hakodate/Mitsui had no shipments of the subject merchandise. Therefore, we have assigned them the rate applicable for the last period in which there were shipments, which was established for the 1982/1983 administrative review period. As a result of our review, we preliminarily determine the dumping margins for the review period of June 1, 1988 through May 31, 1989, to be:

<table>
<thead>
<tr>
<th>Manufacturer/exporter</th>
<th>Margin (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benny Toyama</td>
<td>18.30</td>
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<tr>
<td>Hakodate</td>
<td>10.30</td>
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<td>Hakodate/Mitsui</td>
<td>12.41</td>
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The Department will issue appraisement instructions concerning each manufacturer/exporter directly to the Customs Service upon completion of this administrative review. The following deposit requirements will be effective upon publication of our final results of this administrative review for all shipments of fishnetting of man-made fibers from Japan that are entered, or withdrawn from warehouse, for consumption on or after that publication date, as provided by section 751(a)(1) of the Act. (1) The cash deposit rate for any shipments of this merchandise manufactured or exported by the remaining known manufacturers/exporters not covered in this review will continue to be at the latest rate applicable for those firms (49 FR 18339, April 30, 1984; 53 FR 10264, March 30, 1988); (2) the cash deposit rate for the companies included in this notice will be that established in the final results of this administrative review; and (3) no cash deposit will be required for any future entries of this merchandise from a new producer and/or exporter not covered in this administrative review, whose first shipments occurred after May 31, 1989, and who is unrelated to any reviewed firm or any previously reviewed firm. This is in accordance with our practice of not using the most recently reviewed rate as a basis for cash deposit for new shippers when we have based that rate on best information available. Zero was the highest rate in a prior review for a producer with an acceptable response (53 FR 10264, March 30, 1988). The deposit requirements, when imposed, shall remain in effect until publication of the next administrative review.

Public Comment

In accordance with § 353.38 of the Department's regulations, case briefs must be submitted in at least ten copies to the Assistant Secretary for Import Administration no later than 30 days after the date of publication of this notice in the Federal Register, and rebuttal of briefs no later than 37 days after the date of publication. In accordance with § 252.3(b) of the Department's regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Such a hearing will be held 44 days after the date of publication, or the first business day thereafter. Interested parties who wish to participate in the hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-090, 14th and Constitution Avenue NW., Washington, DC 20230. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed (19 CFR 353.38). In accordance with § 353.38(b) of the Department's regulations, an interested party may make an affirmative presentation only on arguments included in its briefs.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and § 353.22(c)(5) of the Department's regulations (19 CFR 353.22(c)(5)).


Lisa B. Barry.
Acting Assistant Secretary for Import Administration.

[FR Doc. 90-8034 Filed 4-17-90; 8:45 am]
BILLING CODE 3510-DS-M
DEPARTMENT OF DEFENSE

Department of the Navy

CNO Executive Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Space and Electronic Combat Standing Task Force will meet 8-9 May 1990 from 9 a.m. to 5 p.m., at 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to discuss the development of Space and Electronic Combat systems that can survive the Soviet challenge, and provide the minimal capabilities necessary to prevail in extended combat environments. The entire agenda for the meeting will consist of discussions of key issues regarding space exploration in support of U.S. national security, and related intelligence. These matters constitute classified information that is specifically classified pursuant to Executive Order to be kept secret in the interest of national defense and are, in fact, properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code. For further information concerning this meeting, contact: Lelia V. Hrenko, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217-5000, Telephone Number: (202) 696-4488.

Dated: April 6, 1990.

Sandra M. Kay,
Department of the Navy, Alternate Federal Register Liaison Officer.

BILLING CODE 3810-AE-M

DELAWARE RIVER BASIN
COMMISSION

Meeting and Public Hearing

The Delaware River Basin Commission will hold a public hearing on Wednesday, April 25, 1990 beginning at 1:00 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location and will include discussions of the Upper Delaware ice jam project; water quality protection strategies for the Middle and Upper Delaware; amendment of the Delaware Estuary Use Attainability Project.

The subjects of the hearing will be as follows:

Applications for approval of the following projects pursuant to article 10.3, article 11 and/or section 3.8 of the Compact:

1. Holdover Project: Borough of Schuylkill Haven D-89-96-CP. An application for withdrawal of surface water from the Upper and Lower Tumbling Run Reservoir, located at Tumbling Run, a tributary of the Schuylkill River, and for approval of two existing stand-by water supply wells (Nos. 1 and 6), all to serve the applicant's distribution system. The proposed surface water withdrawal will average 2.8 mgd, an increase of 0.2 mgd over the existing withdrawal, and the intake is in the Lower Tumbling Run Reservoir. The stand-by wells will be able to supply a combined total of up to 0.22 mgd. All project withdrawals are located in North Manheim Township, Schuylkill County, Pennsylvania. This hearing continues that of March 28, 1990.

2. Holdover Project: Bristol Borough Water and Sewer Authority D-89-97 CP. A surface water withdrawal project to increase supply for projected water users, in the applicant's existing service area. The proposed withdrawal will average 11.0 mgd, an increase of 6.0 mgd over the existing withdrawal, and the intake is in the Delaware River at Radcliffe and Walnut Streets, Bristol Borough, Bucks County, Pennsylvania.

3. Philadelphia Electric Company D-69-210 CP (Final/Revision 10). An application to: allow excess water from the Tamaqua reservoirs (Still and Owl Creek) to be released and used at Limerick Generating Station in the event of an outage or partial reduction of the Point Pleasant Diversion System; authorize the transfer, in an emergency, of existing consumptive water use allocations from the Titus and Cromby Stations to the Limerick Generating Station; and allow the continued monitoring of dissolved oxygen (D.O.) in the Schuylkill River in place of temperature, through August 1, 1990.

4. Kiamesha Artesian Spring Water Company D-85-20 CP (Renewal). An application for the renewal of a ground water withdrawal project to supply up to 3.0 mg/30 days of water to the applicant's distribution system from the Concord Well. Commission approval on May 1, 1985 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 6.9 mg/30 days. The project is
DEPARTMENT OF EDUCATION

Indian Education National Advisory Council; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Proposal Review Committee of the National Advisory Council on Indian Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: April 23-24, 1990, 8 a.m. until conclusion of business each day.


FOR FURTHER INFORMATION CONTACT: Jo Ho Hunt, Executive Director, National Advisory Council on Indian Education, 330 C Street, SW., Room 4072, Switzer Building, Washington, DC 20205/732-1353.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 5342 of the Indian Education Act of 1988 (25 U.S.C. 2842). The Council is established to, among other things, assist the Secretary of Education in carrying out responsibilities under the Indian Education Act of 1988 (Public Law 100-297) and to advise the Congress and the Secretary of Education with regard to federal education programs in which Indian children or adults participate or from which they can benefit.

Under section 5342(b)(2) of subpart 4 of the Indian Education Act, the Council is directed to review applications for assistance submitted under the Indian Education Act and to make recommendations to the Secretary of Education with respect to their approval. The Proposal Review Committee of the Council will meet in closed session starting at approximately 9 a.m. and will end at the conclusion of business each day at approximately 5 p.m. The agenda will include reviewing grant applications from individuals for assistance under the fellowship program authorized by subpart 2 of the Indian Education Act and making recommendations to the Secretary regarding their approval. The discussion will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemption (6) of section 552(b)(c) of the Government in the Sunshine Act (Public Law 94-409; 5 U.S.C. 552(c)).

The public is being given less than 15 days notice due to problems in scheduling this meeting.

A summary of the activities of the closed meeting and related matters, which are informative to the public consistent with the policy of Title 5 U.S.C. 552b, will be available to the public within 14 days of the meeting.

Signed at Washington, DC.


Jo Ho Hunt,
Executive Director, National Advisory Council on Indian Education.

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Secretary of Energy Advisory Board.

Date and Time: Wednesday, May 2, 1990, 10:00 a.m.—4:35 p.m.


Contact: Dr. Robert M. Simon, Designated Federal Officer, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: (202) 586-7092.

Purpose: The Board was established to serve as the Secretary of Energy's primary mechanism for long-range planning and analysis of major issues facing the Department of Energy. The Board will advise the Secretary on the research, development, energy and national defense responsibilities, activities, and operations of the Department and to provide expert guidance in these areas to the Department.

Tentative Agenda


Wednesday, May 2, 10 am—4:15 pm
Energy Information Administration

Natural Gas Program Package


SUMMARY: The Energy Information Administration (EIA), as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Public Law 98-511, 44 U.S.C. 3501 et seq.), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, EIA is soliciting comments concerning the proposed revision and extension of the forms EIA—176, “Annual Report of Natural and Supplemental Gas Supply and Disposition,” EIA—191, “Underground Gas Storage Report,” EIA—627, “Annual Quantity and Value of Natural Gas Report,” and EIA—857, “Monthly Report of Natural Gas Purchases and Deliveries to Consumers.”

DATES: Written comments must be submitted within 30 days of the publication of this notice. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Margo Natof, Energy Information Administration, EI—441, 1000 Independence Avenue, SW., Washington, DC 20585. Ms. Natof may be called on (202) 586-6303.

FOR FURTHER INFORMATION OR TO OBTAIN COPIES OF THE PROPOSED FORMS AND INSTRUCTIONS: Requests for additional information or copies of the forms and instructions should be directed to Margo Natof at the address listed above.

SUPPLEMENTARY INFORMATION:
I. Background
II. Current Actions
III. Request for Comments
I. Background
In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Public Law 93-275) and the Department of Energy (DOE) Organization Act (Public Law 95-91), the Energy Information Administration (EIA) is obliged to carry out a central comprehensive and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information related to energy resources, reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The Form EIA—176, “Annual Report of Natural and Supplemental Gas Supply and Disposition,” is designed to collect data on natural, synthetic, and other supplemental gas supplies and disposition, and on certain costs and revenues by State. Form EIA—191, “Underground Gas Storage Report,” collects monthly data on the location, ownership, capacity, and operations of all active underground storage facilities. Form EIA—627, “Annual Quantity and Value of Natural Gas Report,” collects information from the appropriate State agencies which gather data concerning natural gas production, the value of marketed natural gas, and the number of producing gas wells to provide a measure of these elements. Form EIA—857, “Monthly Report of Natural Gas Purchases and Deliveries to Consumers,” collects information on the delivered cost of natural gas to distribution systems and the quantity and prices of natural gas consumed by market sector on a monthly basis by State.

II. Current Actions
EIA’s Natural Gas Program Package forms are designed to provide information for use by Congress, Federal and State agencies, industry, and other interested parties on the status of natural gas supply and disposition. In keeping with its responsibilities, EIA is planning to request a three-year extension of the forms used to gather information for this program. EIA proposes to make changes to each of the data collection forms in the Natural Gas Program Package. The purpose of the changes is to improve the quality of the data collections and to clarify the reporting requirements.

For the EIA—176, EIA is proposing the rearrangement of items in Parts IV and V to clarify reporting requirements. The addition of two items to Part V to provide for reporting of gas transported...
to residential customers and gas used as a vehicle fuel is also proposed.

Changes to the Form EIA-857 include the elimination of a number of data items including lines 4, 6, 8, 10, 11, and 12 of part II, column "d" of part II, and all of part V except column "f." Reports will be filed by all operators of underground storage facilities by storage reservoir.

The Form EIA-857 will be changed to add the collection of monthly production figures on this annual form.

Three screened lines have been added to the Form EIA-857. These are not required reporting lines but were added as an aid to respondents. The DOE FAX number was added to aid timely reporting.

III. Request for Comments

Prospective respondents and other interested parties should comment on the proposed extension and revisions. The following general guidelines are provided to assist in the preparation of responses. Please indicate to which form(s) your comments apply.

As a potential respondent:
A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?
B. Can the data be submitted using the definitions included in the instructions?
C. Can data be submitted in accordance with the response time specified in the instructions?
D. Public reporting burden for this collection is estimated to average 19.8 hours per response to the EIA-170 long form, 2 hours per response to the EIA-170 short form, 3.6 hours per response to the EIA-191, 3 hours per response to the EIA-627, and 4 hours per response to the EIA-657. How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, do you estimate it will require you to complete and submit the required form?
E. What is the estimated cost of completing this form? Including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.
F. How can the form be improved?
G. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the means of collection.
As a potential user:
A. Can you use data at the levels of detail indicated on the form?
B. For what purpose would you use the data? Be specific.
C. How could the form be improved to better meet your specific needs?
D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?
EIA is also interested in receiving comments from persons regarding their views on the need for the information contained in the Natural Gas Program Package.

Comments submitted in response to this notice will be summarized and/or included in the requests for OMB approval of the form; they also will become a matter of public record.

Authority: Section 5(a), 5(b), 7(b), and 52 of Public Law 93-275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 766(b), 772(b) and 790a.

Issued in Washington, DC. April 12, 1990.

John Gross,
Acting Director, Statistical Standards, Energy Information Administration.

[Docket No. 90-0028 Filed 4-17-90; 8:45 am]
BILLING CODE 6450-01-M

Southland Energy Corp. and White Hawk Oil and Gas Co. (Southland Energy Corp., et al.; Applications for Small Producer Certificates)

April 12, 1990.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Commission’s regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 2, 1990, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission’s Rules of Practice and Procedure (18 CFR 385.211 and 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 to a proceeding or to participate as a party in any hearing therein 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

1 This notice does not provide for consolidation for hearing of the several matters covered herein.
unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,
Secretary.

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1 The application was received on February 13, 1990.
2 The filing date is the date of receipt of the filing fee.
3 The phrase “from time to time.”

[FR Doc. 90-8914 Filed 4-17-90; 8:45 am]
BILLING CODE 6717-01-M

[FR Doc. 90-8949 Filed 4-17-90; 8:45 am]
BILLING CODE 6717-01-M

[FR Doc. 90-8950 Filed 4-17-90; 8:45 am]
BILLING CODE 6717-01-M

[FR Doc. 90-8951 Filed 4-17-90; 8:45 am]
BILLING CODE 6717-01-M

El Paso Natural Gas Co., Compliance Tariff Filing
April 12, 1990.


El Paso states that the March 8, 1990 order on remand addresses the August 24, 1989 decision by the United States Court of Appeals for the Fifth Circuit wherein the Court reversed and remanded portions of this Commission’s orders issued December 16, 1987 and May 18, 1988 in this proceeding. The Court stated that it is reversing those portions of the Commission orders disallowing the offset for the changes in the modified accelerated cost recovery system (“MACRS”) effected by the 1986 Tax Act. Ordering paragraph (B) of the March 8, 1990 order authorized El Paso to file within thirty (30) days of the order tariff sheets adjusting its rates to reflect the $287,000 offset, consistent with article XIII, Tracking of Changes in Federal Taxes, of the “Stipulation and Agreement in Settlement of Rate Proceedings” at Docket No. RP85-08-000, et al., for the period July 1, 1987 through June 30, 1988. The $287,000 amount reflects using a blended tax rate for calendar year 1987. By order issued December 16, 1987, the Commission required El Paso to use a 34% tax rate for the twelve (12) months July 1, 1987 through June 30, 1988. Using the 34% tax rate for such twelve-month period results in an offset for the MACRS of $709,852.

El Paso further states that the offset of $709,852 used herein reflects the 34% tax rate (as used in El Paso’s July 1, 1988 filing and refund) for the period July 1, 1987 through June 30, 1988, which reflect an increase in commodity and mainline transportation rates effective for the period July 1, 1987 through June 30, 1988. The $287,000 amount reflects using a blended tax rate for calendar year 1987. By order issued December 16, 1987, the Commission required El Paso to use a 34% tax rate for the twelve (12) months July 1, 1987 through June 30, 1988. Using the 34% tax rate for such twelve-month period results in an offset for the MACRS of $709,852.

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basis for the years 1987 and 1988. Since the period affected is July 1, 1987, through June 30, 1988, El Paso used one-half of each annual amount for each year, resulting in an amount of $257,534 for the last six months of 1987 and an amount of $210,668 for the first six months of 1988. The total of $468,202 is then increased by $241,350 for the Federal tax allowance on increased revenue requirement for a total offset amount of $709,552.

Such adjustment results in an increase of $0.0006 per dth in El Paso's commodity sales rates and mainline (front haul) transportation rates and an increase of $0.0003 per dth in El Paso's back haul (one-half the forward haul rate) transportation rates in effect for the period July 1, 1987 through June 30, 1988. The tendered tariff sheets reflect the instant increase in rates, effective July 1, 1987.

El Paso states that in order to recover the over-refunding, El Paso proposed to make a billing adjustment for each sales and transportation customer in the next regularly scheduled monthly invoice succeeding the date on which the Commission approves this filing. Because this increase in rates affects tariff sheets with various effective dates, El Paso respectfully requested that the tendered tariff sheets be accepted by the Commission and permitted to become effective on the dates specified on the attached appendix. El Paso respectfully requested that the proposed plan to recover the above described over-refunded amounts be accepted by the Commission and permitted to become effective thirty (30) days after the date of filing. Copies of the filing were served upon each person designated on the official service list compiled by the Secretary in Docket No. RP85-58-000, et al., and, otherwise upon all interstate pipeline system sales and transportation customers of El Paso and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before April 19, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protesters parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection. Lois D. Cashell, Secretary.

[FR Doc. 90-8951 Filed 4-17-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. GP90-10-000]

Elf Aquitaine Operating, Inc.; Petition for Declaratory Order

April 11, 1990.

Take notice that on April 4, 1990, Elf Aquitaine Operating, Inc. (Elf Aquitaine) filed a petition for declaratory order pursuant to rule 207(a)(2) of the Commission's rules of practice and procedure. Elf Aquitaine is a producer and seller of natural gas in interstate commerce subject to the Commission's jurisdiction under the Natural Gas Act (NGA). Elf Aquitaine sells natural gas for resale to Columbia Gas Transmission Company (Columbia) from a federal lease on the Outer Continental Shelf (OCS), located at Block 531 in the West Cameron Area, Offshore Louisiana. Elf Aquitaine states that it has submitted this petition for declaratory order to resolve a controversy with Columbia concerning the proper computation of the price for Block 531 gas sales, which are subject to the rates determined by the Commission to be just and reasonable in Opinion No. 771, 56 F.P.C. 848 (1976). Elf Aquitaine states that the controversy relates to pricing adjustments for the Btu content of the gas as authorized by the Commission in Opinion No. 771 and as provided in the underlying sales contracts between Elf Aquitaine and Columbia. Specifically Elf Aquitaine requests the Commission to declare that the Btu adjustments prescribed by the certificates and the contracts must reflect the actual Btu content of the gas delivered, as measured on a dry basis at the contract pressure base of 15.025 pounds per square inch absolute (psia).

Any person wishing to do so may submit comments concerning Elf Aquitaine's petition. All such comments should be filed with the Federal Energy Regulatory Commission (Commission). 825 North Capitol Street, NE., Washington, DC 20426, on or before April 25, 1990. Copies of this petition are on file with the Commission and are available for public inspection. Lois D. Cashell, Secretary.

[FR Doc. 90-8916 Filed 4-17-90; 8:45 am]
BILLING CODE 6717-01-M

[Pursuant to section 15(e)(1) of the Federal Power Act, the deadline for the applicant to file amendments, if any, to its application is 30 days after the issuance of this notice.]

Any questions concerning this notice should be directed to Ed Lee at (202) 357-0809.

Lois D. Cashell, Secretary.

[FR Doc. 90-8916 Filed 4-17-90; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP89-1281-005]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

April 10, 1990.

Take notice that on March 9, 1990, Natural Gas Pipeline Company of America (Natural) tendered for filing the below listed tariff sheets to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective January 26, 1990:

Substitute First Revised Sheet No. 110A
Substitute Original Sheet No. 159
Substitute Second Revised Sheet No. 165

Natural states that the tariff sheets reflect the requirements of Ordering Paragraphs (B) and (C) of the Commission's Order issued March 2, 1990 at Docket No. CP89-1281-003. Natural requested waiver of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective January 26, 1990, the date Natural accepted the Commission's certificate order permitting it to implement an interim gas inventory charge.
A copy of filing is being mailed to Natural's jurisdictional sales customers, interested state regulatory agencies and all parties set out on the official service list at Docket No. CP89-1281.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such protests must be filed on or before April 17, 1990. 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.

Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell, Secretary.

[FR Doc. 90-8917 Filed 4-17-90; 8:45 am] BILLING CODE 6717-01-M

[Docket No. RP90-100-001]

Sea Robin Pipeline Company, Correction to Filing

April 11, 1990.

Take notice that on April 3, 1990, Sea Robin Pipeline Company (Sea Robin) filed Third Substitute Original Sheet No. 4-D to its FERC Gas Tariff, Original Volume No. 1, to be effective March 30, 1990.

Sea Robin states that this tariff sheet corrects the proposed effective date that was inadvertently listed in its March 30, 1990 filing as April 1, 1990. The correct effective date is March 30, 1990.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 314 and 311 of the Commissions Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before April 18, 1990. 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.

Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell, Secretary.

[FR Doc. 90-8918 Filed 4-17-90; 8:45 am] BILLING CODE 6717-01-M

[Docket No. MT88-11-008]

Northwest Pipeline Corp., Compliance Filing, Pursuant to Order No. 497-A

April 12, 1990.

Take notice that on Northwest Pipeline Corporation, Docket No. MT88-11-008, tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497-A and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1-A:

Sixth Revised Sheet No. 423
Sixth Revised Sheet No. 423-A

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 19, 1990. 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 desiring to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell, Secretary.

[FR Doc. 90-8917 Filed 4-17-90; 8:45 am] BILLING CODE 6717-01-M

[Docket No. TF90-2-7-000]

Southern Natural Gas Co., Proposed Changes in FERC Gas Tariff

April 12, 1990.

Take notice that on March 30, 1990, Southern Natural Gas Company (Southern) tendered for filing the following revised sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1:

Ninety-third Revised Sheet No. 4A
Twelfth Revised Sheet No. 4

Southern states that the proposed tariff sheets and supporting information are being filed with a proposed effective date of April 1, 1990, pursuant to the Interim Adjustments provision of the Purchased Gas Adjustment clause of its FERC Gas Tariff.

Southern requests a waiver of §§ 154.304 and 154.305 of the Commission's Regulations, which would require Southern to make a quarterly PGA filing to be effective July 1, 1990. Southern further states that the proposed tariff sheets reflect a decrease in Southern's commodity cost of gas on a purchase basis to $2.055 per MMBtu from the level reflected in its annual PGA filing in Docket No. TA90-1-7-000. This reduction in gas costs is attributable to a best efforts purchase commitment from certain customers for the upcoming period April 1 through September 30, 1990.

Southern states that copies of Southern's filing were served upon all Southern's jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 19, 1990. 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 desiring to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell, Secretary.

[FR Doc. 90-8952 Filed 4-17-90; 8:45 am] BILLING CODE 6717-01-M

[Docket No. MT88-28-004]

Valero Interstate Transmission Co., Compliance Filing Pursuant to Order No. 497-A

Take notice that on April 6, 1990, Valero Interstate Transmission Company (Valero) tendered the following tariff sheets for filing in the captioned docket pursuant to Order No. 497-A and § 250.16 of the Commission's Regulations as part of its FERC Gas Tariff, Original Volume No. 1:

4th Revised Sheet No. 22
Substitute 2nd Revised Sheet No. 28.30
Original Sheet No. 28.11

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211. All such motions or protests must be filed by April 27, 1990. 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 desiring to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell, Secretary.

[FR Doc. 90-8953 Filed 4-17-90; 8:45 am] BILLING CODE 6717-01-M
Office of Fossil Energy

Coal Policy Committee, National Coal Council, Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-363, 86 Stat. 770), notice is hereby given of the following meeting:

**Name:** Coal Policy Committee of the National Coal Council

**Date and Time:** Friday, May 4, 1990, 9 a.m.

**Place:** Atlanta Airport Marriott Hotel, Atlanta, GA

**Contact:** Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE-1), Washington, DC 20585.

**Telephone:** 202/586-4695.

**Purpose of the parent council:** To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

**Purpose of the meeting:** To discuss the status of the two studies the Council is presently preparing.

**Tentative Agenda:**

- Call to order by Irving Leibson, Chairman.
- Discussion of the status of "The Future Long-Range Role of Coal in the Energy Strategy of the United States."
- Discussion of the status of "The Use of Coal and Clean Coal Technology."
- Discussion of any other business properly brought before the National Coal Council Coal Policy Committee.
- Adjournment.

**Public participation:** The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

**Transcripts:** Available for public review and copying at the Public Reading Room, Room 15-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**Issued at:** Washington, DC, on April 13, 1990.

Clifford P. Tomaszewski, Director, Office of Natural Gas, Office of Fossil Energy.

**BILLING CODE 8450-01-M**

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**Environmental Protection Agency**

**[FRL-3752-3]**

**Ecological Processes and Effects Committee**

**Ecological Risk Consultative Group and Ecological Monitoring Subcommittee; Open Meetings**

Under Public Law 92-463, notice is hereby given that meetings will be held...
of the Ecological Risk Consultative Group and the Ecological Monitoring Subcommittee of the Ecological Processes and Effects Committee of the Science Advisory Board on May 7 and May 8-9, 1990 respectively. The meetings for all three days will be in conference room Dominion 1 at the Howard Johnson, National Airport, 2650 Jefferson Davis Highway, Arlington, VA 22202.

The Ecological Risk Consultative Group meeting will start at 10:30 a.m. and will adjourn no later than 5 p.m. on May 7, and is open to the public. The main purpose of this meeting is to provide consultation to the Risk Assessment Forum on the problems associated with applying risk assessment techniques to the protection of plants and animals from adverse impacts. This consultation represents an effort on the part of the SAB to “get involved early” in the development of scientific approaches to environmental protection.

The Ecological Monitoring Subcommittee meeting will start at 8:30 a.m. on May 8 and adjourn no later than 5 p.m. May 9, and is open to the public. The main purpose of this meeting is to review an EPA document entitled “Bioindicators”. The document is available from Mr. Thomas Dixon (202/382-7238). The term bioindicators is used to describe various tests, surrogate measurements, or numerical indices which can be used to monitor the health, stress, recovery, or ecological potential of populations, communities, or ecosystems. This review is part of an anticipated long-term effort by the Ecological Processes and Effects Committee of the Science Advisory Board to evaluate the progress of the Agency’s Environmental Monitoring and Assessment Program (EMAP).

An agenda for both meetings is available from Dorothy Clark, Staff Secretary, Science Advisory Board (A101F), U.S. Environmental Protection Agency, Washington, DC 20460 (202-382-2552). Members of the public desiring additional information should contact Dr. Edward S. Bender, Designated Federal Official, Environmental Effects, Transport, and Fate Committee, by telephone at the number noted above, by FAX (202-475-6693), or by mail to the Science Advisory Board (A101F), 401 M Street, SW., Washington, DC 20460 no later than April 30, 1990. Anyone wishing to make a presentation at the meeting should forward a written statement to Dr. Bender by April 30, 1990. The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. Seating at the meeting will be on a first come basis.

Donald Barnes, Director, Science Advisory Board.


[FR Doc. 90-9012 Filed 4-17-90; 8:45 am]

BILLING CODE 6580-50-M

[OPP-200000; FRL 3740-5]

Funds to Conduct Research and Development of Antimicrobial Test Methodology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of funds and the solicitation of applications for proposals to conduct research and development of antimicrobial test methodology under a cooperative agreement with EPA. The research is expected to focus on either upgrading the current AOAC Tuberculocidal and Sporicidal test methods, and the EPA Virucidal test methods, or developing new test procedures to achieve the objective of reproducible, reliable, and statistically valid tests for efficacy evaluation. EPA anticipates awarding three cooperative agreements under Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) FY 90 funds to support research for a 2-year project period.

DATES: The original and nine copies of the application must be received by May 15, 1990.

ADDRESSES: The original and eight copies must be sent to: Grants Operations Branch (PM-216F), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. One copy of the original must be sent to: Susan Parker, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Application Kits may be obtained from: Research Grants Staff (RD-675), National d Branch (PM-216F), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: For General Information: By mail: Susan Parker, Registration Division (H7505C), at the address given above. Office location and telephone number: Rm. 711, CM # 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7470). For Technical Information: By mail: William E. Campbell, Jr. Registration Division (H7505C), at the Washington address given above. Office location and telephone number: Rm. 711, CM # 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-7470)

SUPPLEMENTARY INFORMATION: In this notice the Office of Pesticide Programs is announcing the availability of funds to conduct research and development of antimicrobial test methodology.

I. Background

The Office of Pesticide Programs within EPA regulates antimicrobial pesticides under the statutory authority of FIFRA, as amended. Currently, one source of test methods used to evaluate antimicrobial efficacy is the “Official Methods of Analysis of the Association of Official Analytical Chemists,” developed by the Association of Analytical Chemists (AOAC). In recent years, the public health community has raised concerns regarding the reliability, accuracy, and reproducibility of the permitted test methods. Consequently, EPA intends to commit funds for research and development to upgrade antimicrobial test methodologies and appropriate performance standards, thus assuring the data submitted to the Agency in support of product registration are based on reliable, reproducible, and statistically valid test methods. EPA expects to award funds under cooperative agreements to qualified applicants to conduct developmental research on tuberculocidal, sporicidal, and virucidal test methodologies.

II. Research Parameters

Solicitations are being made for research on the development of reproducible, statistically valid, and reliable test methods based on the AOAC Tuberculocidal and Sporicidal test methods, and the EPA Virucidal test methods. EPA intends to be involved in the test methodology research and development by approving work by stages, approving any subcontracts, conducting on-site visits/inspections at reasonable intervals, co-authoring published reports relative to the funded study, and initiating research activity if the intent, approach, or anticipated phases leading to the accomplishment of the study are not being achieved, or have been revised without prior Agency approval.

Currently, the test methods used for tuberculocidal, sporicidal and virucidal efficacy testing are alleged to lack reliability and reproducibility due to the following conditions:
1. The variability introduced by the hardness and pH of the dilution water are not addressed. In addition, questions have been raised about the use of serum as an organic soil load in the virucidal and tuberculocidal tests and whether or not it should be replaced by a standardized organic soil.

2. The efficacy of currently authorized neutralizers for use with all classes of disinfectants (i.e., quats, iodophors, and phenolics) is unknown.

3. The current performance standards may be statistically unreliable.

4. The soil-extract medium used during the AOAC virucidal test has not been defined or standardized.

5. The EPA Virucidal test methods for the acceptance of public health claims (i.e., hepatitis, human immunodeficiency virus, herpes simplex type II, and influenza) are not based on a representative standard strain for each test virus of public health concern.

The above issues should be considered when developing a proposal for research on test methodology. The experimental design of the studies conducted should follow the AOAC Handbook for development of AOAC methods. The studies should also be designed to permit meaningful statistical analysis to be performed on the data (as in the AOAC Statistical Manual).

Research must include a plan for a collaborative study under the auspices of the AOAC for each test method developed.

III. Mechanisms of Support

EPA funding of methodology development and research will occur under section 20(c)(1) of FIFRA. Research is expected to be conducted under cooperative agreements requiring substantial involvement by EPA personnel in the proposed study. Approximately $600,000 will be available from FY 90 funds with which to conduct research on tuberculocidal, sporicidal, and virucidal efficacy tests.

Federal grant regulation 40 CFR 30.307 requires all recipients to provide a minimum of 25 percent of the total project cost, which may not be taken from Federal sources.

IV. The Application

Each application will consist of the Application for Federal Assistance forms (standard forms 424 and 424A) and an addendum to forms 424 and 424A, as stated below, which will include the following: curriculum vitae for the principal investigator; an abstract of the proposed project; a narrative description of the statistical method(s) that will be used to assess data; the required Quality Assurance Program Plan; a narrative certification of intent to conduct studies in accordance with GLP standards, 40 CFR part 160; and a narrative certification that EPA will be notified of any non-EPA sources of cost-sharing.

V. Addendum to Forms 424 and 424A

1. Principal investigator and key personnel. Present a biographical sketch of the principal investigator incorporating the following information: name, address, phone number, education, background and other qualifying experience for the project. Also, list the name and training discipline of other key personnel engaged in the project. Identify other projects in which the principal investigator is presently engaged and the amount of time he/she devotes to each. Provide a bibliography of the principal investigator’s publications. Provide a summary of employment, including contracts and consultancies, for the present and for the past 2 years for the principal investigator and each of the key personnel.

2. Objectives of this project. Describe the principal and subordinate objectives of the project. Pinpoint any relevant physical, economic, social, financial, institutional, or other problems requiring solution. Supporting documents from concerned interests other than the applicant may be used. Any relevant data based on planning studies should be included and footnoted.

3. Approach: a. Provide a detailed work plan for the accomplishment of the scope and detail of the proposed project. Cite factors which might accelerate or decelerate the work. Indicate why this approach has been taken rather than alternatives. Describe any unusual features of the project such as design or innovations, reductions in cost or time, or extraordinary social and community involvement.

b. Describe all facilities presently available for use in carrying out the project.

c. For all applications, list by name all non-Federal sources of funds and facilities to be utilized in the performance of the proposed project.

d. List in chronological order a schedule of accomplishments, progress, or milestones that are anticipated over the length of the project.

e. Indicate by which each element of the work plan will be carried out including supporting agencies, consultants and contractors.

f. Give a narrative description of the collaborative study proposed and the statistical methods used to assess the data and basic research findings.

4. General project information. a. Identify the kind of data to be collected (and maintained) and discuss the criteria to be used to evaluate the results and success of the project.

b. Discuss: (1) The effect of this project on or its relationship to other work planned, anticipated, or underway by the grantee, recipient of the funds, or other Government agencies.

(2) Federal, State, interstate, and local programs with which the work will be coordinated and the extent and nature of the coordination.

5. Quality assurance. The application must include a quality assurance plan as described in § 30.503(d) of the grant regulations (part 30 - General Regulations for Assistance Programs). In addition, certification of intent to conduct studies in accordance with GLP Standards, 40 CFR part 160, must be included.

VI. Administrative Details of Proposal

a. The proposal must consist of no more than a total of 35 pages (regular size type - no smaller than 8 1/2 x 11" pages) one side only including application forms and all enclosures, covers, or attachments. Proposals exceeding 35 pages will not be reviewed.

b. Curriculum vitae or resumes may not exceed 2 pages for each principal investigator.

c. The identification tag "OPF/RA/AB" must be printed in the upper right hand corner of the EPA assistance application forms. The absence of this identifier from an application absolves EPA of any responsibility if it is not reviewed along with the other applications responding to this notice.

VII. Application Review

All applications received in response to this notice will be reviewed and evaluated for scientific merit according to the following criteria:

1. Quality of proposed research, to include sound rationale of experimental design, originality, and significance of the anticipated results.

2. Qualifications and competency of individuals designated to conduct the research as evidenced by prior experience in the proposed or similar research areas.

3. Adequacy of support offered by the applicant’s organization in terms of laboratory facilities, adequate and appropriate laboratory equipment, support personnel and services, library, etc.
According to 40 CFR 40.150, the reviewer of applications for research and development must arrange for a minimum of one intramural (In-House) and two extramural (Non-EPA) reviews to assess the technical and scientific merit of all relevant applications.


Douglas D. Campt,
Director Office of Pesticide Programs.

[For Doc. 89-5913 Filed 4-17-90; 8:45 am]

BILLING CODE 6560-50-D

[PF 533; FRL-3733-4]

Dow Chemical U.S.A.; Notice of Amended Pesticide Petition and Filing of Food/Feed Additive Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that EPA has received from Dow Chemical U.S.A., Agricultural Products Department, a revised Section F for pesticide petition (PP) 6F3622 and an initial filing of food/feed additive petition (FAP) H5597 for residues of the herbicide clopyralid in or on various commodities.

ADDRESSES: By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Attention: Product Manager (PM) 23, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, deliver comments to: Rm. 246, CM #2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in the Program Management and Support Division office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:
Joanne I. Miller, Acting Product Manager (PM) 23, Registration Division (H7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 557-1830.

SUPPLEMENTARY INFORMATION:
Amended Pesticide Petition

1. PP 6F3622. Dow Chemical U.S.A., Agricultural Products Dept., P.O. Box 1706, Midland, MI 48640, has submitted a revised Section F proposing to amend 40 CFR 180.431 by establishing tolerances of the herbicide clopyralid (3,6-dichloro-2-pyridinecarboxylic acid) as follows: 0.2 part per million (ppm) in or on corn, field, grain; 1.6 ppm in or on corn, field, green forage/silage; 5.0 ppm in or on corn, field, fodder.

Notice of the initial filing of PP 8F3622 appeared in the Federal Register of May 25, 1986 (53 FR 18996).

Initial Feed Additive Petition

2. FAP H5597. Dow Chemical U.S.A., Agricultural Products Dept., P.O. Box 1706, Midland, MI 48640, has submitted food/feed additive petition (FAP) H5597 proposing to amend 40 CFR 185.1100 and 186.1100 to establish tolerances for the herbicide clopyralid (3,6-dichloro-2-pyridinecarboxylic acid) in or on field corn milling fractions at 0.6 ppm.


Anne E. Lindsay,
Director, Registration Division. Office of Pesticide Programs.

[FR Doc. 90-5913 Filed 4-17-90; 8:45 am]

BILLING CODE 6560-50-D

[OPP-100072; FRL-3738-1]

Labat-Anderson, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Labat-Anderson, Inc. (LAI) will perform work specified in several Task Orders issued under EPA contract number 68-W9-0052. This work will be done for the EPA Office of Pesticide Programs, Field Operations Division, Public Information Branch and will require access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed as confidential business information (CBI) by submitters. This information will be transferred to LAI as authorized by 40 CFR 2.307(h)(3) and 40 CFR 2.308(i)(2), respectively.

This transfer will enable LAI to fulfill the terms of the Task Order, and this notice serves to notify affected persons.

DATES: LAI will be given access to this information no sooner than April 25, 1990.

FOR FURTHER INFORMATION CONTACT: By mail: Catherine S. Grimes, Program Management and Support Division (H7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-4460.

SUPPLEMENTARY INFORMATION: Three Task Orders have been awarded under EPA Contract No. 68-W9-0052, LAI will first assist the Office of Pesticide Programs in the evaluation and organization of pesticide incidents records. These records include published data on poisonings and information on pesticide adverse effects submitted to the Office of Pesticide Programs by various sources. Also, LAI will assist in the development of a data base system to collect information about pesticide incidents. Under a second Task Order, LAI will assist the Public Information Branch in cataloging, preparing, maintaining, and tracking records requested and released under the Freedom of Information Act (FOIA). LAI will provide support for computer information systems that track data evaluation, data released under FOIA, and data reviewed for CBI. Under a third Task Order, LAI will assist the Public Information Branch in responding to public inquiries, by responding to FOIA requests, compiling resource documents to support Branch activities, managing of records and internal computer systems associated with this work, and assisting with mailings to States, EPA Regions, and other OPP constituents. This contract involves no subcontractor.

The Office of Pesticide Programs has determined that access by LAI to information on all pesticide chemicals is necessary for the performance of these Task Orders.
Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 6, and 7 of FIFRA and obtained under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3) and 2308(i)(2), LAI shall not use the information for any purpose other than the purposes specified in the Task Orders; shall not disclose the information in any form to a third party without prior written approval from the Agency or affected business; and shall require that each official and employee of the contractor sign an agreement to protect the information from unauthorized release. No information will be provided to LAI until the above requirements have been fully satisfied. LAI will provide the above services within EPA facilities and will handle documents in accordance with the FIFRA Information Security Manual. Records of information provided to LAI will be maintained by the Task Order Officers for this contract in the EPA Office of Pesticide Programs. All information supplied to LAI by EPA for use in connection with the Task Orders will be returned to EPA when LAI has completed its work.

Douglas D. Campt,
Director, Office of Pesticide Programs.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Some of this information may be provided to this contractor until April 23, 1990. No information will be provided to LAI sooner than April 23, 1990.

FOR FURTHER INFORMATION CONTACT: By mail: Catherine S. Grimes, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.
Office location and telephone number: Rm. 212, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-4460.

SUPPLEMENTARY INFORMATION: Under Contract No. 68-D8-0018, REA will be responsible for designing and implementing a tracking system for handling and safeguarding FIFRA CBI gathered and used by OAQPS. REA will process and store CBI received, generated, or transferred by OAQPS. This contract involves no subcontractors.

OAQPS and the Office of Pesticide Programs have jointly determined that the contract herein described involves work that is being conducted in connection with FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and obtained under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2) and 2308(i)(2), the contract with REA, prohibits use of the information for any purpose other than the purposes specified in the contract, prohibits disclosure of the information in any form to a third party without prior written approval from the Agency or affected business; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. REA will provide the above services within EPA facilities and will handle documents in accordance with the FIFRA Information Security Manual. Records of information provided to this contractor will be maintained by the Project Officer for this contract in OAQPS. All information supplied to REA by EPA for use in connection with this contract will be returned to EPA when REA has completed its work.

Douglas D. Campt,
Director, Office of Pesticide Programs.

BILLING CODE 6560-50-D

[OPP-100073; FRL-3738-2]

Syracuse Research Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Syracuse Research Corporation (SRC) has been awarded a contract to perform work for the EPA Office of Environmental Criteria and Assessment and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to SRC consistent with the requirements of 40 CFR 2.307(h)(3) and 40 CFR 2.308(i)(2), respectively. This transfer will enable SRC to fulfill the obligations of the contract and this notice serves to notify affected persons.

DATES: REA will be given access to this information no sooner than April 23, 1990.

FOR FURTHER INFORMATION CONTACT: By mail: Catherine S. Grimes, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.
Office location and telephone number: Rm. 212, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-4460.

SUPPLEMENTARY INFORMATION: This notice is to amend the list of chemicals that appeared in a Federal Register notice of January 13, 1988 (53 FR 794). The pesticide chemicals listed below are in addition to those mentioned in the above Federal Register. SRC will be preparing and updating environmental effects documents, including aquatic toxicity and environmental fate and transport. Other chemicals may be included in SRC's work later in this contract. Readers may contact the person named above in approximately 1
year to learn if chemicals other than those on this list and the original listing of January 13, 1988, will be involved in this contract.

- Alachlor
- 1,1-Diethylhydrazine
- Boron and compounds
- Methyl bromide
- Chlorobenzilate
- Chlorodifluoromethane
- 2-Chlorophenol
- Creosote
- 2,4-D
- 1,2-Diethylhydrazine
- 1,1-Dimethylhydrazine
- 1,2-Dimethylhydrazine
- Dimethyl urea
- Diphenyl Phthalate
- Disulfotol
- Endosulfan (sulfate)
- Fomric acid
- 2-Hexanone
- Hydrogen sulfide
- Methanol
- 2-Methyl-1-chlorophenoxyacetic acid
- Methyl bromide
- Methyl methacrylate
- Molybdenum
- Mustard gas
- 2-Nitroaniline (o-)
- 2-Nitroaniline (n-)
- Nitrogen dioxides
- Phosphorothioic acid, o,o,o-trimethyl ester
- Propionic acid
- Sulfuric acid
- 2,3,5,6-Tetrachloroterephthalic acid
- Toluene diisocyanate
- Toluene: 1.1,2- Trichloro-1,2,2-trifluoroethane
- Trinitrotoluene
- TrinitrophenylmethyliTrtramine
- Triethanolamine
- Trihalomethanes

The Office of Environmental Criteria and Assessment and the Office of Pesticide Programs have jointly determined that Contract No. 68-C3-3521 involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA. Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and obtained under sections 408 and 409 of the FDFCA. In accordance with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2), the contract with SRC prohibits disclosure of the information for any purpose other than purposes specified in the contract; prohibits disclosure of the information in any form to a third party; prohibits disclosure of the information to certain evaluations to be made under this contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency or affected business, and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, SRC has previously submitted for EPA approval a security plan under which any CBI will be protected against unauthorized release or compromise. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Environmental Criteria and Assessment. All information supplied to SRC by EPA for use in connection with this contract will be returned to EPA when SRC has completed its work.

**Dated:** April 11, 1990

Douglas D. Cananp ———— Director, Office of Pesticide Programs

**BILLING CODE** 6560-50-D

**[OPP-100071; FRL-3715-9]**

Versar, Inc., General Science Corp., Syracuse Research Corp., — Arthur D. Little; Transfer of Data

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FDDCA). Versar, Inc. and its subcontractors, General Science Corp. (GSC), Syracuse Research Corp. (SRC), and Arthur D. Little (ADL), have been awarded a contract to perform work for EPA’s Office of Pesticides and Toxic Substances, and will be provided access to certain information submitted to EPA under FIFRA and the FDFCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to Versar, Inc. and its subcontractors, GSC, SRC, and ADL, consistent with the requirements of 40 CFR 2.307(h)(3) and 40 CFR 2.308(i)(2), respectively. This transfer will enable Versar, Inc. and its subcontractors, GSC, SRC, and ADL, to fulfill the obligations of the contract and serves to notify affected persons.

**DATES:** Versar, Inc. and its subcontractors, GSC, SRC, and ADL, will be given access to this information no sooner than April 23, 1990.

**FOR FURTHER INFORMATION CONTACT:** By mail: Catherine S. Grimes, — Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, CM #2, 2121 Jefferson Davis Highway, Arlington, VA, (703) 557- 4691.

**SUPPLEMENTARY INFORMATION:** Under Contract No. 68-D9-0166, Versar, Inc. and its subcontractors, GSC, SRC, and ADL, will review exposure assessments on human and nonhuman populations exposed to toxic and pesticide substances, and make a determination as to the description and quantification of these exposures. Versar, Inc. and its subcontractors, GSC, SRC, and ADL, will maintain a computer data base to process and evaluate the exposure data.

The Office of Pesticides and Toxic Substances has determined that access by Versar, Inc. and its subcontractors, GSC, SRC, and ADL, to information on certain pesticide chemicals submitted in connection with FIFRA, will be subject to the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and obtained under sections 408 and 409 of the FDFCA. In accordance with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2), the contract with Versar, Inc. and its subcontractors, GSC, SRC, and ADL, prohibits use of the information for any purpose other than purposes specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency or affected business; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release. In addition, Versar, Inc. and its subcontractors, GSC, SRC, and ADL, are required to submit for EPA approval a security plan under which any CBI will be protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Pesticides and Toxic Substances. All information supplied to Versar, Inc. and its subcontractors, GSC, SRC, and ADL, by EPA for use in connection with this contract will be returned to EPA when Versar, Inc. and its subcontractors.
Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products and products involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by May 18, 1990.

ADDRESS: By mail submit comments identified by the document control number [OPP-30304] and the registration/file number, attention Product Manager (PM) named in each application at the following address:

Environmental Protection Agency, Rm. 207, CM #2, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

by phone at 703-557-3262.

Reviewing the application file, telephone the PMSD office (703-557-3262), to ensure that the file is available on the day of the review.

The procedure for requesting data will be given in the Federal Register if an application is approved.

Requests for data will be given in the Federal Register if an application is approved.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703-557-3262), to ensure that the file is available on the date of intended visit.


Anne E. Lindsay,
Director, Registration Division, Office of Pesticide Programs.

Federal Register / Vol. 55, No. 75 / Wednesday, April 18, 1990 / Notices 14469
ACTION: Notice.
SUMMARY: EPA has established temporary tolerances and has renewed temporary tolerances for residues of the insecticide biphenthrin in or on certain raw agricultural commodities. These temporary tolerances were requested by FMC Corp.

DATES: These temporary tolerances expire January 12, 1991.

FOR FURTHER INFORMATION CONTACT: By mail: George LaRocca, Product Manager (PM) 15, Registration Division (H7503C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 204, CM-2, 1921 Jefferson Davis Highway, Arlington, VA. (703) 557-2400.

SUPPLEMENTARY INFORMATION: EPA gives notice that it has established and renewed temporary tolerances for residues of the insecticide, biphenthrin in or on certain raw agricultural commodities, as follows:

Initial Filings

1. PP 6G3313 and PP 6G3314. FMC Corp., Agricultural Chemicals Group, 2000 Market St., Philadelphia, PA 19103, has requested in pesticide petitions (PP 6G3313 and 6G3314) the establishment of temporary tolerances for residues of the insecticide biphenthrin (cyclopropanecarboxylic acid, 3-[2-chloro-3,3'-trifluoroo-1-propenyl]-2,2-dimethyl-2-[methyl[1,1'-biphenyl]-3-yl methyl ester]) in or on the raw agricultural commodities pecans at 0.05 part per million [ppm] (PP 6G3313) and pears at 0.8 ppm (PP 6G3314). These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permits 279-EUP-111 and 279-EUP-112, respectively, which are being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-231, 92 Stat. 839; 7 U.S.C. 136). These tolerances expire January 12, 1991. Residues not in excess of these amounts remaining in or on the above raw agricultural commodities after the expiration date will not be considered to exceed the quantity authorized by the experimental use permits.

2. PP 5G3235, PP 5G3236, and PP 5G3269. FMC Corp., Agricultural Chemicals Group, requested EPA by a notice issued in the Federal Register of September 14, 1988 (53 FR 35551), to establish temporary tolerances for residues of the insecticide biphenthrin in or on the raw agricultural commodities field corn grain at 0.05 ppm, field corn silage at 2.0 ppm, field corn fodder at 4.0 ppm, milk at 0.03 ppm, meat at 0.1 ppm, fat at 0.5 ppm, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.3 ppm (PP 5G3235), walnuts at 0.05 ppm (PP 5G3236), and strawberries at 1.0 ppm (PP 5G3269). These tolerances are being renewed.

The company has requested a 1-year renewal of these temporary tolerances for residues of the insecticide to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permits 279-EUP-105, 279-EUP-106, and 279-EUP-110, respectively, which are being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-231, 92 Stat. 839; 7 U.S.C. 136). The scientific data reported and other relevant material were evaluated, and it was determined that renewal of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

a. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permits.

b. FMC Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on the safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire January 12, 1991. Residues not in excess of these amounts remaining in or on the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permits and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1104, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a[j].

Anne E. Lindsay,
Director, Registration Division. Office of Pesticide Programs.

[FR Doc. 90-8556 Filed 4-18-90; 8:45 am]
BILING CODE 9860-90-0

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; US/Jamaica Discussion Agreement and Neptuno/CSAV Service Agreement

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 1325. 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.: 203-011063-007
Title: U.S./Jamaica Discussion Agreement

Parties:
Crowley Caribbean Transport, Inc.
Kirk Lines Ltd.
Sea-Land Service, Inc.
Zim-African Israeli Shipping Co., Inc.
Calypso Container Lines
Shipping Corporation of Trinidad and Tobago, Ltd.
West Indies Shipping Corporation (WISCO).

Synopsis: The proposed amendment would add North American Caribbean Line Ltd. as party to the Agreement. The parties have requested a shortened review period.

Agreement No.: 212-011189-002
Title: Neptuno/CSAV Service Agreement

Parties:
Naviera Neptuno S.A. 
Compania Sud Americana de Vapores.

Synopsis: The proposed modification would extend the Agreement from April 30, 1990 to February 10, 1990. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.


Joseph C. Polking, Secretary.

[FR Doc. 90-9028 Filed 4-17-90; 8:45 am]

BILLING CODE 6735-01-M

Agreement(s) Filed; Port of Oakland/ American President Lines Ltd., Terminal Agreement

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 6 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 10230. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20593, 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 Nos.: 224-002758-009 and 224-002758C-004

Title: Port of Oakland/ American President Lines Ltd., Terminal Agreement.

Parties:
Port of Oakland (Port)
American President Lines, Ltd. (APL)

Synopsis: The Agreement amends Agreement No. 224-002758 to provide for advance notice to the Port in the event APL moves to other Port premises; grants the Port an option to purchase any of APL's owned cranes located on the assigned premises or upon the adjacent premises assigned to APL by Agreement Nos. 224-002480 and 224-002605, upon ninety days' prior written notice; and modifies Agreement No. 224-002758C provisions concerning secondary use revenues and the parties' obligations for dredging and access to the premises. The Agreement amends both Agreement Nos. 224-002758 and 224-002758C with respect to the parties' obligations for maintenance and repair of the assigned and leased premises.

By Order of the Federal Maritime Commission.


Joseph C. Polking, Secretary.

[FR Doc. 90-9028 Filed 4-17-90; 8:45 am]

BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM

The First National Bank of Norfolk
Employee Stock Ownership Plan;
Change in Bank Control Notices;
Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j) and § 225.41 of the Board’s Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of this Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the notice or to the offices of the Board of Governors. Comments must be received not later than May 1, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

B. Federal Reserve Bank of Kansas City (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64109:
1. T. Brent Ballinger, Pawhuska, Oklahoma, to acquire an additional 44.4 percent for a total of 44.8 percent; E.E. Fromby, Pawhuska, Oklahoma, to acquire an additional 1.85 percent for a total of 10.0 percent; Stratford B. Tolson, Pawhuska, Oklahoma, to acquire an additional 2.5 percent for a total of 5.0 percent; W. Robert Wilson, Pawhuska, Oklahoma, to acquire 2.5 percent of the voting shares of N.B.C. Bancshares in Pawhuska, Inc., Pawhuska, Oklahoma, and thereby indirectly acquire National Bank of Commerce in Pawhuska, Pawhuska, Oklahoma.

2. Lionel C. Harris, Cushing, Oklahoma; to acquire an additional 8.0 percent of the voting shares of The Bank of Cushing and Trust Company, Cushing, Oklahoma.

3. Norman N. Nelson, Norton, Kansas; to acquire 41.85 percent; N. Terry Nelson, Long Island, Kansas, to acquire 41.85 percent; and Troy D. Nelson, Lewis, Kansas, to acquire 9.3 percent of the voting shares of Norton Bankshares, Inc., Norton, Kansas, and thereby indirectly acquire The First State Bank, Norton, Kansas.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:
1. Louise Fridell Johnson, Chattanooga, Tennessee; to acquire 11.87 percent of the voting shares of Terrell Bancshares, Inc., Terrell, Texas, and thereby indirectly acquire The Terrell State Bank, Terrell, Texas.


Jennifer J. Johnson, Associate Secretary of the Board.

[FR Doc. 90-9004 Filed 4-17-90; 8:45 am]

BILLING CODE 6710-01-M

First of America Bank Corporation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board’s Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board’s approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.23 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can “reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as...

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 90–8005 Filed 4–17–90; 8:45 am]
BILLING CODE 6210–01–M

National Westminster Bank PLC and Natwest Holdings, Inc.; Proposal to Provide Financial Advisory Services; Act as a Broker or Agent in Financial Transactions; and Provide Securities Brokerage Services


In particular, Applicant proposes to:

1. Act as broker or agent for, and render advice in connection with, merger, acquisition, divestiture, financing and similar transactions, including loan syndications, interest rate swaps, interest rate caps and similar transactions for nonaffiliated financial and nonfinancial institutions, and including dealer, or dealer-manager activities in connection with tender offers and exchange offers ("M&A Services");

2. Provide valuations for nonaffiliated financial and nonfinancial institutions ("Valuation Services"); including:

   i. Valuations of companies (or one or more integral parts thereof) for purposes of merger, acquisition, divestiture, financing and similar transactions;

   ii. Tender and exchange offer valuations;

   iii. Advice for management or bankruptcy courts on the viability and capital adequacy of financially troubled companies (and on the fairness of bankruptcy reorganizations);

   iv. Valuation opinions on transactions in equity and debt securities;

   v. Valuation opinions on the fair market value of securities held in employee stock ownership trusts, pension or profit-sharing plans, charitable trusts, venture capital funds and similar entities, or for estate tax purposes;

   vi. Valuation opinions on stock of publicly held and privately owned companies;

3. Provide fairness opinions in connection with merger, acquisition, divestiture, financing and similar transactions for nonaffiliated financial and nonfinancial institutions ("Fairness Opinions");

4. Provide financial feasibility studies, consisting of the evaluation of financial and other economic aspects of a proposed or pending project that should be considered by prospective investors in reaching investment decisions ("Feasibility Studies"); and

5. Act as agent for the purchase and sale of securities, upon the order and for the account of customers, in over-the-counter market and securities exchanges.

The Board previously has approved providing financial advisory services, Signet Banking Corporation, 73 Federal Reserve Bulletin 59 (1987), acting as a broker and advisor in connection with interest rate transactions, The Sumitomo Bank Limited, 75 Federal Reserve Bulletin 582 (1988), and providing services brokerage activities, 12 CFR 225.25(b)(4). Applicant proposes to conduct these activities in substantial compliance with the Board's prior Orders.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. National Courier Association v. Board of Governors, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (1994).

Applicant maintains that acting as a broker, or dealer-manager, in connection with financial advisory services are within the array of services provided by banks. Applicant would advise clients as to the structure of a proposed project, participate in negotiations on behalf of a client, and assist the client in obtaining financing. Applicant has committed that it would act solely as agent for clients in providing such services.

In connection with acting as a broker or agent on behalf of a client in a tender or exchange offer, Applicant proposes to act as a "dealer-manager." As proposed by Applicant, a dealer-manager has three principal functions. First, a dealer-
manager reviews the proposed transaction with the offeror to determine whether it is advantageous. The dealer-manager assists the offeror in establishing the terms and structure of the transaction, and formatting the overall strategy. The dealer-manager then assists the offeror in the solicitation of shareholders by communicating the offer to institutional shareholders, brokers, dealers, and commercial banks. The dealer-manager facilitates the flow of information by supervising the dissemination of offers and ensuring their transmission from shareholders of record to the beneficial owners. Applicant states that a dealer-manager would not recommend acceptance of the offer to any shareholder of the company stock to be acquired. Applicant would not underwrite or privately place securities as a dealer-manager.

Applicant contends that the proposed activities are closely related to banking because banks are engaging in such activities. In addition, Applicant asserts that the services to be performed are similar to a bank's traditional role of lending to customers, and obtaining financing for customers.

In determining whether a particular activity is a proper incident to banking, the Board considers whether the performance of the activity by an affiliate of a holding company can reasonably be expected to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices.

Applicant contends that allowing Company to engage agency activities in connection with providing financial advisory services will provide customers with increased access to M&A services. Applicant contends that customer convenience will be enhanced by Company's ability to advise clients with respect to domestic and international alternatives available in the financial market.

With respect to possible adverse effects, Applicant contends that Company's de novo entry into the business of financial advisory and agency activities in connection with such services would raise no questions of undue concentration or resources or decreased or unfair competition. In addition, Applicant argues that Company's conduct of the proposed activities would raise no question of unsound banking practices since Company's financial exposure from the services will be limited, and involve little capital or risk assumption.

In order to eliminate conflicts of interest that may arise from the provision of the M&A Services, Valuation Service, and delivery of Fairness Opinion and Feasibility Studies. Applicant has made the following commitments:

1. Company will act solely as agent for clients in providing such services;
2. Such services will not encompass the performance of routine tasks or operations for a client on a daily or otherwise continuous basis;
3. Company will render advice on an explicit fee basis only, without regard to correspondent balances maintained by its client at any depository institution subsidiary of Applicant;
4. Company will withhold from each of its affiliates any confidential information received from Company's clients, and each of Company's affiliates will withhold from Company any confidential information obtained from its customers, except with the consent of such client or customer or as expressly required by applicable law or regulation;
5. Company will disclose its affiliation with Applicant to each potential client; and
6. Applicant will implement procedures that will prevent and safeguard against tying products and services of Company with loans made by Applicant or any of Applicant's subsidiaries.

In publishing the proposal for comment the Board does not take an position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Comments are requested on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether the proposal as a whole can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices."

Any request for a hearing on these questions must, as required by § 262.3(e) of the Board’s Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why 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.

The application may be inspected at the offices of the Board of Governors of the Federal Reserve Bank of New York.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than May 9, 1990.


Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 90-8930 Filed 4-17-89; 8:45 am]

BILLING CODE 6110-01-M

North American Bancorp, Inc., 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 4, 1990.

A. Federal Reserve Bank of Cleveland

John J. Wixted, Jr., Vice President
1455 East Sixth Street, Cleveland, Ohio 44101.


B. Federal Reserve Bank of Kansas

Thomas M. Hoening, Vice President
DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Concept of Conducting Multi-Site Epidemiological Studies at Superfund Sites; Meeting

The Agency for Toxic Substances and Disease Registry (ATSDR) announces the following meeting.

Name: Concept of Conducting Multi-Site Epidemiological Studies at Superfund Sites.

Time and Date: 9 a.m.—5 p.m., May 3, 1990.

Place: Sheraton Century Center Hotel, Dogwood room, 2000 Century Boulevard (off 1-85 and Clairmont Road), Atlanta, Georgia 30345.

Status: Open to the public for observation and participation, limited only by the space available. The meeting room accommodates approximately 100 people.

Matters To Be Considered: The meeting will convene a group of interested parties to discuss the concept of conducting multi-site epidemiological studies for Superfund sites, the value of such studies in meeting agency objectives, the feasibility and appropriate uses of multi-site studies, the costs and benefits, and the identification of supporting literature.

Oral comments will be scheduled at the discretion of the meeting facilitator and as time permits.

Contact Person for More Information:
Dr. Je Anne R. Burg, Chief, Exposure and Health Studies, ATSDR, 1600 Clifton Road, NE., Mailstop E-31, Atlanta, Georgia 30333. Telephones: FTS 236-0561; Commercial 404/639-0561.

Elvin Hilyer,
Associate Director for Policy Coordination.

BILLING CODE 6210-01-M

Centers for Disease Control

[Announcement 022]

Introduction

The Centers for Disease Control (CDC) announces a availability of funds for cooperative agreements with State departments of health and/or appropriate agencies of State government to build State capacity for conducting surveillance of elevated blood lead levels.

Authority

This program is authorized under section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended, and the Occupational Safety and Health Act of 1970, section 20 (29 U.S.C. 689).

Eligible Applicants

Eligible applicants are the official State or Territorial health departments and/or departments of environment with regulations for reporting blood lead levels who do not currently maintain all components of a lead surveillance activity, as defined in this announcement, for elevated blood lead levels in children and/or adults.

Availability of Funds

A maximum of $128,340 will be available in Fiscal Year 1990 to fund one to four awards. The awards are expected to range from approximately $25,000 to a maximum of $35,000, with the average award being approximately $30,000. The awards will be made for 12-month budget period within a project period of one year.

Purpose

The program has four objectives:

1. Develop in collaboration with CDC a surveillance plan for elevated PbBs which includes:
   a. Establishing a case and data management system.
   b. Establishing a system for ensuring reporting from private and public laboratories to the health department and initiating data collection.
   c. Developing a method for assuring follow-up of adult and child cases.
   d. Obtaining demographic and other information by phone or home visit.
   e. Conducting field investigations to identify environmental lead hazards and recommend means of reducing them.
   f. Exchanging data with CDC.
   g. Analyzing data from case reports.
   h. Providing a report at the end of the year conforming with guidelines provided by CDC.

2. Develop a protocol that indicates collaboration of the State health department with other relevant State and federal agencies, including State labor departments, workers’ compensation systems, State and local housing authorities, maternal and child health clinics, environmental agencies, and childhood lead screening programs.

3. Develop a timetable for the development and implementation of the proposed protocol.

4. Submit the proposed protocol and timetable to CDC for review and approval. Upon approval by CDC, the recipient will implement the proposed surveillance strategy.

5. Collaborate with CDC staff, as necessary, in developing program descriptions, guidelines, and

Program Requirements

To satisfy the above requirements, State health departments will be funded which do not currently have a lead surveillance activity but which do have existing reporting regulations and demonstrate the ability to establish such a surveillance system. A lead surveillance activity is defined for the purpose of this Request for Applications to be a system for collecting information about individuals (primarily children and/or workers) identified with elevated lead levels; ensuring and collecting data on their follow-up, including field investigations when appropriate; and analyzing the accumulated data in a complete and timely fashion. Successful applicants must have existing reporting regulations and must demonstrate the ability to establish a surveillance activity as defined above. The State will develop and implement a lead surveillance strategy as follows:

The recipient will be expected to:

1. Develop in collaboration with CDC a surveillance plan for elevated PbBs which includes:
   a. Establishing a case and data management system.
   b. Establishing a system for ensuring reporting from private and public laboratories to the health department and initiating data collection.
   c. Developing a method for assuring follow-up of adult and child cases.
   d. Obtaining demographic and other information by phone or home visit.
   e. Conducting field investigations to identify environmental lead hazards and recommend means of reducing them.
   f. Exchanging data with CDC.
   g. Analyzing data from case reports.
   h. Providing a report at the end of the year conforming with guidelines provided by CDC.

2. Develop a protocol that indicates collaboration of the State health department with other relevant State and federal agencies, including State labor departments, workers’ compensation systems, State and local housing authorities, maternal and child health clinics, environmental agencies, and childhood lead screening programs.

3. Develop a timetable for the development and implementation of the proposed protocol.

4. Submit the proposed protocol and timetable to CDC for review and approval. Upon approval by CDC, the recipient will implement the proposed surveillance strategy.

5. Collaborate with CDC staff, as necessary, in developing program descriptions, guidelines, and
documentation of data processing systems and field investigation procedures that would be used to introduce other state agencies to state-based blood lead surveillance techniques.

6. Collaborate, with CDC, as necessary, in interim or final evaluation of the proposed surveillance activity.

7. Provide a report on the first year's data to CDC.

B. Activities of CDC will be:

1. Program Organization and Development
   a. Provide assistance and experience gained from existing State lead surveillance systems for each aspect of the establishment and conduct of a PbB surveillance program. Such assistance includes assessing the completeness of information on occupation, industry and outcome for each report and providing training in coding schemes used to summarize these data items.
   b. Collaborate in assessing the adequacy and extent of data maintenance for the State data systems to ensure that all data items are accessible to computer analyses. In general, CDC and the recipients will jointly review the data management system in terms of surveillance activities expected to be supported in order to determine areas in need of modification.
   c. Assist in adaptation of the recipients' statistical procedures and methods for the purpose of compatibility with national reporting of PbBs. In coordinating the surveillance activities of different States, CDC may utilize the National Electronic Telecommunications System for Surveillance (NETSS) or other existing public health communication networks.
   d. Assist in the quality assurance/quality control evaluation of reported data.

2. Implementation of the Proposed Surveillance Technique
   Joint analysis of the blood lead surveillance data will allow CDC to facilitate the recipients with health data systems at the national level and in other states, and their utility for comparative analyses and standardization purposes. CDC will provide technical assistance throughout this phase and assist in the quality control of data collection and processing.

3. State Program Evaluation
   Collaborate in the evaluation of all activities undertaken pursuant to the development and implementation of the proposed surveillance program.

4. Interchange of Information
   CDC collaboration with all recipients will be undertaken with the intent of assuring the development of blood lead surveillance programs at the state level. Consistent with this intent, CDC will coordinate and facilitate the interchange of technical information with recipients. As the PbB surveillance system develops, CDC will collaborate with recipients to establish quarterly or other periodic reports. This exchange is consistent with the national need for a network of states with compatible resources and surveillance capabilities for meeting the States' needs and for providing lead surveillance data to CDC on a timely basis.

5. Technical and Field Assistance
   CDC will provide assistance in the conduct of field investigations and intervention efforts as needed. (Projects funded through a Cooperative Agreement that involve collection of information from 10 or more individuals will be subject to review under the Paperwork Reduction Act.)

Evaluation Criteria
   Applications will be reviewed and evaluated according to the following criteria:
   1. The applicant's understanding of the need or problem to be addressed and the purpose of this cooperative agreement.
   2. The ability to provide the staff, knowledge, financial and other resources required to perform the applicant's responsibilities in this project, and describe the approach to be used in carrying out those responsibilities.
   3. The feasibility of obtaining laboratory data from within the State.
   4. The willingness and ability to follow through on reported data with appropriate interventions.
   5. The extent to which the applicant understands the objectives of the project; the steps to be taken in planning and implementing this project, and the respective responsibilities of the applicant, CDC, and any other entities for carrying out those steps.
   6. The proposed schedule for accomplishing each of the activities to be carried out in this project, and a method for evaluating the accomplishment are clearly defined.
   7. The qualifications and appropriateness of the proposed program staff, and time allocated for them to accomplish program activities; the support staff available for the performance of this project; the facilities, space and equipment available for performance of this project; and the capability of the applicant's administrative structure to foster the development of an ongoing blood lead surveillance system using State data sources.

8. The proposed plan for administering this project and the name, qualifications, and time allocations of the individual whom the applicant proposes to make responsible for its administration.

9. That the estimated cost to the Government of the project is reasonable, a detailed budget which indicates (1) anticipated costs for personnel, travel, communications and postage, equipment, and supplies and (2) the sources of funds to meet those needs.

Executive Order 12372 Review
   Applicants are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Catalog of Federal Domestic Assistance Number
   The Catalog of Federal Domestic Assistance number is 13.283.

Application Submission and Deadline
   The original and two copies of the application PHS Form 5161-1 (Rev. 3/89) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 Paces Ferry Road, NE., room 300, Mail Stop E-14, Atlanta, Georgia 30305 on or before June 1, 1990.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:
   a. Received on or before the deadline date, or
   b. Sent on or before the deadline date and received in time for submission to the independent review group.

(Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1.a. or b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information
   Information on application procedures, copies of applications forms, and other material may be obtained from Lisa Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and
Grants Office, Centers for Disease Control, 265 East Paces Ferry Road, NE., room 300, Mailstop E14, Atlanta, Georgia 30305, or by calling (404) 639-2918 or FTS 236-9291.

Announcement number 022, “Surveillance of Elevated Blood Lead Levels” must be referenced in all requests for information pertaining to these projects.

Technical assistance may be obtained from Paul Seligman, M.D., Chief, Medical Section, NIOSH, Robert A. Taft Laboratory, 4676 Columbia Parkway, Cincinnati, Ohio 45226, or by calling (513) 841-4353 or FTS 684-4353.


Larry W. Sparks, Acting Director, National Institute for Occupational Safety and Health.

[F.R. Doc. 90-8979 Filed 4-17-90; 0:45 am]
BILLING CODE 4160-19-M


Time and Date: 9 a.m.-3 p.m., May 10, 1990.

Place: Robert A. Taft Laboratories, Auditorium, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Status: Open to the public, limited only by the space available.

Purpose: To conduct an open meeting for a technical peer review of the proposed second edition of the Work Practices Guide for Manual Lifting, which contains revisions to the formulas for calculating Action Limits and Maximum Permissible Limits, and additional material for non-sagittal plane lifting. Comments and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Contact person for more information: Robert J. Biersner, Ph.D., NIOSH, CDC, 4676 Columbia Parkway, C-24, Cincinnati, Ohio 45226, telephone (513) 841-2919 or FTS 684-2919.


Elwin Hilyer, Associate Director for Policy Coordination, Centers for Disease Control.

[F.R. Doc. 90-8982 Filed 4-17-90; 8:45 am]
BILLING CODE 4160-18-M

CDC Advisory Committee on the Prevention of HIV Infection: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following Committee meeting:

Name: CDC Advisory Committee on the Prevention of HIV Infection.

Time and Date: 9 a.m.-4 p.m., May 16, 1990, 8:30 a.m.-5 p.m., May 17, 1990.

Place: Terrace Garden Inn-Buckhead, 3405 Lenox Road NE., Atlanta, Georgia 30326.

Status: Open to the public, limited only by the space available.

Purpose: This Committee is charged with advising the Director, CDC, regarding objectives, strategies, and priorities for HIV prevention efforts, including maintaining surveillance of AIDS cases and HIV infection, the epidemiologic and laboratory study of AIDS and HIV, information/education and risk reduction activities designed to prevent the spread of HIV infection, and other preventive measures that become available.

Matters To Be Discussed: Agenda items will include announcements, review of the minutes of the previous meeting and future meeting dates; and an indepth review of efforts by CDC and other health agencies to address the problem of HIV transmission among drugusing populations.

Agenda items are subject to change as priorities dictate.

Contact person for more information: Linda Gimestad, Committee Assistant, Office of the Deputy Director (HIV), CDC, 1600 Clifton Road NE., Mailstop E-40, Atlanta, Georgia 30333, telephone (404) 639-2918 or FTS 236-2918.


Elwin Hilyer, Associate Director for Policy Coordination, Centers for Disease Control.

[F.R. Doc. 90-8983 Filed 4-17-90; 8:45 am]
BILLING CODE 4160-18-M

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), April 26, 27, and 28, 1990, National Institutes of Health, Building 31, room 9N-222, Bethesda, Maryland 20892.

AGENCY: Office of Human Development Services, HHS.

ACTION: Notice.

announces the availability of
ACTION: Administration.
Services Within Community Health
Availability of Funds for Grants To
Assistant Secretary for Human Development
Services Administration (HRSA)

Facilities

Provide for the Delivery of AIDS/HIV
Public Health Service
Mary Sheila Gall,
Average burden hours per response.... 8.8
Annual frequency.................................
Annual number of respondents......... . 300

requirements contained in Public Law
in part, Congressional reporting
through this study will be used to meet,
between child abuse and familial
alcoholism. The information obtained
among children with handicaps and the
relationship between child abuse and
children's handicapping conditions.
Section 103(a) of the Act requires the
Director of NCCAN to conduct a study of
the incidence of child abuse and neglect
among children with handicaps and the
relationship between child abuse and
familial alcoholism. The information obtained
through this study will be used to meet,
in part, Congressional reporting
requirements contained in Public Law
100-294.

Annual number of respondents........... 300
Annual frequency.................................
Average burden hours per response.... 8.8
Total burden hours.............................. 2,521

Dated: April 12, 1990.
Mary Sheila Gall,
Assistant Secretary for Human Development
Services.
[FR Doc. 90-8897 Filed 4-17-90; 8:45 am]
BILLING CODE 4130-01-M

Public Health Service
Availability of Funds for Grants To
Provide for the Delivery of AIDS/HIV
Services Within Community Health
Facilities
AGENCY: Health Resources and Services Administration.
ACTION: Notice of available funds.

SUMMARY: The Health Resources and Services Administration (HRSA)
announces the availability of

approximately $10.9 million in Fiscal Year (FY) 1990 for grants to community
health facilities, including Community and Migrant Health Centers and local
public hospitals and clinics, to provide comprehensive primary care services to
persons with human immunodeficiency virus (HIV) infection. These grants will
be awarded under the provisions of the Department of Health and Human
Services Appropriations Act, FY 1990, Public Law 101-166.

DATES: To receive consideration, grant applications must be received by the
Grants Management Officer by June 18, 1990. Applications shall be considered
as meeting the deadline if they are either (1) received on or before the
deadline date; or (2) postmarked on or before the deadline date and received in
time for submission to the review committee. Applicants should request a
legibly dated U.S. Postal Service postmark or obtain a legibly dated
receipt from a commercial carrier or U.S. Postal Service. Private metered
postmarks will not be acceptable as proof of timely mailing. Applications
received after the announced closing date will not be considered for funding
and will be returned to the applicant.

ADDRESSES: Application kits (Form PHS 5101–1) with revised facsimile DHHS
form 424, as approved by the Office of Management and Budget under control
number 0346-0006) may be obtained from, and completed applications should
be mailed to the appropriate PHS Regional Grants Management Officer (see Attachment). For program
information, contact Joan Holloway, Director, or Dr. Patricia Salomon,
Medical Director, Division of Special Population Grants Development, Bureau of Health Care Delivery
and Assistance (BHCDA), at (301) 443-8134.

SUPPLEMENTARY INFORMATION: Eligible applicants are community health
facilities, including community and migrant health centers and local public
hospitals and clinics. It is expected that approximately 20 to 35 grants will be
awarded under this announcement. The range of project support may vary
considerably, depending upon the number of individuals who will receive
care through this effort. Priority consideration will be given to (1) those
community health facilities providing a comprehensive program of primary
health care services, like those offered by community health centers funded under sections 330 and
329 of the Public Health Service Act, that includes specialized services for
individuals who are infected with HIV or those with AIDS; (2) community-
based organizations with a governing
board, a majority of whose members are
served by the center and who represent
the individuals being served in terms of
demographic characteristics; (3) those
community health facilities located in
medically underserved areas that have
large numbers of HIV/AIDS cases, a
high AIDS incidence rate, and/or
concentrations of persons at high risk
for HIV infection; and (4) those
community health facilities that have
integrated their HIV efforts with drug
abuse treatment programs and other
State/local/private providers of HIV
related services.

Funding under this grant program is
intended to increase the capacity of
community health facilities to offer
higher quality, broader scope, and
greater quantities of HIV related clinical
services needed in their service area,
including the ability to monitor
progression of HIV disease so that
treatment can be provided earlier in the
course of the disease. The services will
include increased counseling and
testing, partner involvement in risk
reduction, transmission prevention,
monitoring of HIV disease status,
appropriate primary care diagnostic
treatment services, and case
management to ensure that individual
service needs are met.

The provision of comprehensive
ambulatory services in a community
health facility setting to persons at high
risk of HIV infection and those presently
infected should complement and expand
the present primary care program. This
grant program will enable community
health facilities that provide on-site
services to HIV/AIDS patients to
provide for additional patients and to
offer additional services. It is expected that
effective case-management will be
emphasized in all the community health
facilities supported by this grant
program.

Project Requirements
Each application must contain a
description of the purposes for which
the applicant expects to expend the
grant funds. The description of purposes
must include information relating to the
programs and activities to be supported:
The character and needs of the expected
user population, the number of
individuals who will receive services
under the grant, the services to be
provided, a description of intended
expenditures, including the average
costs of providing services to each
individual, and a description of the
manner in which primary care and case
management for HIV patients are to be
provided.
The applicant must present a plan to identify, monitor, and control costs related to treatment of HIV as a chronic condition. The plan must include estimates of expenditures for and revenues from the services proposed. Applicants will have to maximize the services available from private insurance, Medicaid, Medicare, and other third party sources.

Criteria for Evaluating Applications:

An objective review of applications that are received and considered timely will be conducted by the Bureau of Health Care Delivery and Assistance (BHCGDA). In its review of applications for grant support, BHCGDA will consider the extent to which an application addresses or provides:

a. The need in the community for additional primary care services to those at-risk for HIV infection and HIV-infected persons, barriers to meeting those needs with the existing service provider system, and other information that makes a compelling case for the grant request;

b. Evidence of existing community health facility policies, staff training, and clinical protocols that address provision of HIV services;

c. Evidence of casefinding among previously enrolled patients, the number of HIV/AIDS patients currently being served, and incorporation of new HIV positive community health facility patients with acceptable follow-up systems;

d. Documentation of the existing, plus intended, scope of primary care prevention, diagnostic, treatment and case management services provided by the community health facility;

e. Documentation of appropriate diagnostic and treatment services provided for asymptomatic and symptomatic HIV positive patients, identifying existing and intended services;

f. Documentation of significant linkages with other U.S. public Health Service funded programs, State local, or privately funded specialized HIV services in the community, and primary care programs provided through the State/local, public health system. This should show how the grant supported program is complementary and increases the available HIV services to the community;

g. Documentation of cost identification and control procedures, third party reimbursement, and other fiscal administrative policies that will maximize the grant funds awarded.

h. Documentation of competent administrative and clinical management of the other currently-operated community health facility, primary health care service programs, with sound fiscal and management reporting systems.

i. Documentation of plan for evaluating the impact of the program on the health of patients in the health care facilities, and plans for assessing the quality of care provided by the grant supported program.

OTHER GRANT INFORMATION: The program is considered to be subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs and 45 CFR part 100. Grants awards will be made subject to the provisions of the Public Health Service Grants Policy Statement and to 45 CFR parts 74 and 92.

Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kit will contain a listing of States which have chosen to set up a review system and will identify a point of contact in each State for review.

Since 60 days are allowed for this review, applicants are advised to discuss projects with and provide copies of their applications to contact points as early as possible. At the latest, an applicant should provide the application to the State for review at the same time it is submitted to the Grants Management Officer.

Dated: March 9, 1990.

Robert G. Harmon,
Administrator.

Attachment—Regional Grants Management Officers

Mary O'Brien DHHS Region I John F. Kennedy Federal Building, Boston, Massachusetts 02203 (617) 565-1482

Thomas Butler DHHS Region II 29 Federal Plaza, Room 3900, New York, New York 10278 (212) 264-4496

Richard Devolchky DHHS Region III P.O. Box 13176, 3535 Market Street, Philadelphia, Pennsylvania 19101 (215) 596-6553

Wayne Gutsch DHHS Region IV 101 Martetta Tower, Room 1106, Atlanta, Georgia 30323 (404) 331-2597

Lawrence Poles DHHS Region V 300 South Wacker Drive, Chicago, Illinois 60606 (312) 8700

Frank Carter DHHS Region VI 1200 Main Tower Building, Dallas, Texas 62020 (214) 707-3865

Hollis Hensley DHHS Region VII 601 East 12th Street, Room 501, Kansas City, Missouri 64106 (816) 426-3841

Jerry F. Wheeler DHHS Region VIII 1001 Stout Street, Denver, Colorado 80228 (303) 644-4401

Alan Harris DHHS Region IX 56 United Nations Plaza, San Francisco, California 94102 (415) 556-2560

Way/C Adams DHHS Region XI 2201 Sixth Avenue, Mail Stop RN-20, Seattle, Washington 98121 (206) 442-7607

1. The degree to which the project plan adequately provides for meeting the requirements set forth in § 57.2405 of the program regulations and the appendix;
2. The potential effectiveness of the proposed project in carrying out the education purposes of section 822 of the Act;
3. The capability of the applicant to carry out the proposed project;
4. The extent to which the project has joint program direction by qualified nurse and physician educators;
5. The soundness of the fiscal plan for assuring effective utilization of grant funds; and
6. The potential of the project to continue on a self-sustaining basis after the project period.

In addition, the following mechanisms as defined below may be applied in determining the funding of approved applications:

1. Funding preferences—funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuations ahead of new projects.
2. Funding priorities—favorable adjustment of review scores when applications meet specified objective criteria.
3. Special consideration—enhancement of priority scores by merit reviewers based on the extent to which applicants address special areas of concern.

For Fiscal Year 1991, the following statutory and Departmental special considerations will be applied and the following funding priorities are proposed. The Administration is not proposing a funding preference in the review of applications for Fiscal Year 1991.

Statutory Special Considerations

In accordance with the statute, section 822, the Secretary will give special consideration to applications for grants for programs for the education of nurse practitioners and nurse midwives who will practice in health manpower shortage areas (designated under section 822 of the PHS Act) and for programs for the education of nurse practitioners which emphasize education with respect to the special problems of geriatric patients (particularly problems in the delivery of preventive care, acute care and long term care—including home health care and institutional care to such patients) and education to meet the particular needs of nursing home patients and patients confined to their homes.

Proposed Funding Priorities

For Fiscal Year 1991, it is proposed to give a funding priority to:

1. Graduate Degree Programs. Applicant institutions that have either a 3-year average enrollment of minority students in graduate nursing education in excess of the national average, or demonstrate an increase in minority enrollment in the graduate program which exceeds the program's prior 3-year average. Applicant institutions submitting applications to establish the first master's level nursing program in that institution may qualify for a funding priority if they can demonstrate an enrollment of minority students in their graduate program in excess of the national average for undergraduate nursing programs. The current national average of graduate minority students in nursing is seven percent.

2. Certificate Level Programs. Applicant institutions which demonstrate an increase in minority enrollment in the program which exceeds the program's prior 3-year average.

These priorities are being proposed in order to increase the percentage of minority enrollment in nurse practitioner and nurse-midwifery programs. Minority students are currently underrepresented in these programs.

Interested persons are invited to comment on the proposed funding priorities. Normally, the comment period would be 60 days. However, due to the need to implement any changes for the Fiscal Year 1991 award cycle, this comment period has been reduced to 30 days. All comments received on or before May 18, 1990, will be considered before the final funding priorities are established. No funds will be allocated before the final funding priorities are established.

Written comments should be addressed to:

Director, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 5C–26, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Nursing, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Requests for grant application materials, questions regarding grants policy and completed application materials should be directed to:

Grants Management Officer (D–24), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 5C–26, Rockville, Maryland 20857. Telephone: (301) 443–6060.

Should additional programmatic information be required, please contact Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 5C–26, Rockville, Maryland 20857. Telephone: (301) 443–6333.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and Supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0090.

Multiple review cycles are held annually. The first application deadline date for Fiscal Year 1991 funding was April 1, 1990. The second and final date for FY 1991 funding is October 1, 1990.

Applications shall be considered as meeting the deadline if they are either:
1. Received on or before the deadline date, or
2. Postmarked on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or the U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Any applications not meeting a particular deadline will be reviewed with applications meeting the subsequent deadline.

This program is listed at § 13.298 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372.

Intergovernmental Review of Federal Programs, (as implemented through 45 CFR part 110).


Robert G. Harmon, Administrator.

[FR Doc. 90–8935 Filed 4–17–90; 8:45 am]
DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision and Deletion of Notices of Systems of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior is revising one notice and deleting another. The notice being revised describes a system of records maintained by the Office of Inspector General. When the system was last published in the Federal Register on May 10, 1983 (48 FR 21002), it was renumbered from OIG-3 to OIG-1; however, the change was not made in the system title. The notice titled "Management Information—Interior, Office of Inspector General—1," is being revised to correct this error and is published in its entirety below.

The notice titled "RELOS Records—Interior, GS-6," which was previously published in the Federal Register on July 5, 1985 (50 FR 27695), is being deleted from the Department's inventory of Privacy Act systems of records notices. The system contains information used by the Geological Survey in preparing telephone directories and issuing parking permits. Since the Office of the Secretary system notice OS-58, Administrative Operations Records on Employees, covers the maintenance and use of these records Departmentwide, there is no longer a need for the system.

Since these changes do not involve any new or intended uses of the information in the systems of records, the notice shall be effective on April 18, 1990. Additional Information regarding the foregoing may be obtained from the Departmental Privacy Act Officer, U.S. Department of the Interior (PMI), MS-2242, MIB, Washington, DC 20240.

Dated: April 6, 1990.

Oscar W. Mueller, Jr.,
Director, Office of Management Improvement.

INTERIOR/OIG-1

SYSTEM NAME:

SYSTEM LOCATION:
(1) Office of Inspector General, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240; (2) Office of Inspector General Regional Offices and Regional Suboffices (A current listing of such offices and their locations can be obtained from the System Manager).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:
Past, present and prospective departmental employees, contractors, subcontractors, grantees, subgrantees, lessees, licensees, and other persons doing business with the Department, or having contact with the Department or geographical areas under its jurisdiction.

CATEGORIES OF RECORDS IN THE SYSTEM:
(a) OIG Employee Resources file will contain information regarding OIG employee assignments, distribution of time, training completed and performance; (b) Audit Status file will contain status information on all audits from point of request or annual planning through follow-up and eventual closure; (c) Investigation Status file will contain status information on all investigations from point of receipt or acceptance of a case through closure; (d) Audit and Investigations History file will contain the findings, recommendations and actions on all audits and investigations; (e) Audit Inventory file will contain a record of each auditable entity of the Department, including its contracts, grants, cooperative agreements, organizations, programs and functions; and (f) Freedom of Information Act and Privacy Act file will contain information relating to requests for access to OIG records and other kinds of requests under those Acts, and OIG action on such requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:
The primary uses of the records are: (a) Personnel information will be used by staff managers to determine training needs, quality of performance, and promotional eligibility; (b) assignment information and workload status information will be used by managers to control audits and investigations, and to maximize effectiveness of staff resources; (c) the Audit Status file will be used to track all audits from point of request or actual planning through follow-up and eventual closure; (d) the Investigation Status file will be used to track all investigations from point of receipt or acceptance through closure; (e) the Audit and Investigation History file will record the findings, recommendations, and actions on all audits and investigations and will serve to archive pertinent history of audits and investigation; (f) to conduct and report investigations of serious misconduct or irregularities, mismanagement, gross waste of funds, abuse of authority, danger to public health and safety, or violation of law, to ensure compliance by Departmental employees, contractors, subcontractors, grantees, subgrantees, lessees, licensees and other persons doing business with the Department with federal statutes, regulations, policies, and procedures; (g) to develop audit reports which bring to the attention of management officials, the Congress, contractors, and grantees, etc., existing deficiencies and recommendations for correcting these deficiencies; (h) the Audit Inventory file will be used to forecast budget requirements for auditing each entity, review of contracts and grants for compliance and detection or prevention of fraud, waste and abuse, and to conduct trend analysis and review of expenditures; (i) the Freedom of Information Act and Privacy Act file will be used to respond to requests under those Acts; and (j) to prevent and detect fraud and abuse and to promote economy, efficiency, and effectiveness in the program and operations of the Department of the Interior.

Disclosures outside of the department may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) to a Member of Congress from the record of an individual in response to an inquiry made at the request of that individual; (3) to a federal, state, tribal, territorial or local government agency which has funds involved to alert that agency to the deficiencies so that the agency may take corrective action; (4) to another federal, state, tribal, territorial or local government agency having partial or complete jurisdiction over the auditee or subject matter of the audit; (5) to appropriate federal, state, tribal, territorial, local, foreign agencies responsible for investigating or prosecuting the violation of, or for enforcing, implementing, or administering a statute, rule, regulations, order, program, facility, lease, license, contract, grant, or other agreement; (6) to a federal, state, tribal, territorial, local or foreign agency, or an organization, or an individual when reasonably necessary to obtain information or assistance relating to an audit, investigation, trial, hearing preparation for trial or hearing, or any other authorized activity of the Office of Inspector General; (7) to federal, state, tribal, territorial, local or foreign agencies where necessary to obtain information or assistance relating to the hiring or retention of an employee, or
the issuance of a security clearance, contract, license, grant, or other benefit; (8) to a federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of security clearance, license, contract, grant, or other benefit; (9) to an actual or potential purchaser or his or her attorney for the purpose of negotiation or discussion on such matter as settlement of the case or matter, plea bargaining, or informal discovery proceedings; (10) to a foreign government pursuant to an international treaty, convention, or executive agreement entered into by the United States; (11) to complainants for the purpose of notifying them of the progress and disposition of their complaints.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:
Password files on an automated data processing system.

RETRIEVABILITY:
Most files in the system are accessed by case number or report title (which may incorporate the name of an individual), but the Employee Resources Personnel file is accessed by social security account number; the Freedom of Information Act and Privacy Act file is accessed also by name of requester or submitter.

SAFEGUARDS:
Manual files are in locked rooms. Electronic files are protected by passwords accessible only to authorized persons. Computerized files will be safeguarded in accordance with 43 CFR 2.61(c).

RETENTION AND DISPOSAL:
General personnel information is destroyed when no longer needed for administrative use; the continuous update files are closed at the end of an audit or investigation and transferred to the Audit and Investigative history files for retention; the Audit Inventory, Audit and Investigation History, and Freedom of Information Act and Privacy Act files will be destroyed when no longer needed for agency use.

SYSTEM MANAGER(S) AND ADDRESS:
AGENCY: Notice of receipt of conveyance of mineral interest application AZA-24246.

Notice is hereby given that pursuant to section 209 of the Act of October 21, 1976, 90 Stat. 2757, Jeffrey C. Zimmerman and Janet L. Zimmerman have applied for conveyance of the mineral estate described as follows:

Gila and Salt River Meridian, Arizona
T. 6 N., R. 4 E., Sec. 3, E%SE46E%NW4, W%SW4
SW4NE4.

Noting is thereby given that pursuant to section 209 of the Act of October 21, 1976, 90 Stat. 2757, Jeffrey C. Zimmerman and Janet L. Zimmerman have applied for conveyance of the mineral estate described as follows:

Gila and Salt River Meridian, Arizona
T. 6 N., R. 4 E., Sec. 3, E%SE46E%NW4, W%SW4
SW4NE4.

The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

The purpose is to allow consolidation of surface and subsurface ownership for the lands described above, where there are no known mineral values or in those instances where the reservation of ownership of the mineral interest in the United States interferes with or precludes appropriate non-mineral development of the lands and such development would be more beneficial use of the lands than its mineral development.

Additional information concerning this application may be obtained from the Area Manager, Phoenix Resource Area, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Upon publication of this notice in the Federal Register, the mineral interests described above will be segregated to the extent that they will not be open to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate either upon issuance of a patent or other document of conveyance of such mineral interests, upon final rejection of the application or two years from the date of the filing of the application, January 18, 1990, whichever occurs first.

Dated: April 9, 1990.

Henri Bisson,
District Manager.

A key to the abbreviations used is provided after the schedule.

**TABLE I.—BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE**

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<td>Alaska:</td>
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<tr>
<td>Anchorage</td>
<td>Kuskokwim/Lower Yukon RMP (mining)</td>
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<td></td>
<td>Southeast RMP (recreation, mining, wildlife)</td>
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<td></td>
<td>Utility Corridor RMP (wildlife, recreation, state land selection, energy-minerals transportation)</td>
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<td></td>
<td>Western Arctic RMP (O&amp;G, subsistence, wildlife)</td>
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<td>Southcentral RMP (recreation, wildlife)</td>
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<td>Fort Greely RMP (military withdrawal, recreation)</td>
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<td></td>
<td>Fort Wainwright RMP (forestry, recreation, military withdrawal, mining)</td>
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<td>Steese RMP Revision (recreation, wildlife, mining)</td>
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<td></td>
<td>White Mountain RMP Revision (recreation, wildlife, mining)</td>
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<td></td>
<td>Arizona Strip RMP (reality, off-road vehicles, recreation, cultural resources mgmt.)</td>
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<tr>
<td></td>
<td>Arizona Strip RMP (reality, off-road vehicles, recreation, cultural resources mgmt.)</td>
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</table>

The planning process begins with the publication of a Notice of Intent to initiate a plan. Public notice and opportunity for participation in each RMP are provided as required by the regulations (43 CFR 1610.2(f)). Publication of the draft RMP and associated draft environmental impact statement as indicated on the schedule is a key opportunity for public comment.

The planning process begins with the publication of a Notice of Intent to initiate a plan. Public notice and opportunity for participation in each RMP are provided as required by the regulations (43 CFR 1610.2(f)). Publication of the draft RMP and associated draft environmental impact statement as indicated on the schedule is a key opportunity for public comment.

A number of plan amendments are in progress or are scheduled in the period 1990 through 1993 to address oil and gas resources in high priority areas. These amendments are identified in a separate table since there is considerable public interest associated with them and, unlike most plan amendments, they have been scheduled over more than one year. These plan amendments will determine the availability of public lands for oil and gas leasing and the associated terms and conditions.

A key to the abbreviations used is provided after the schedule.

**DATES:** Comments on the schedule will be accepted until May 18, 1990.

**ADDRESSES:** Comments should be sent to: Director (760), Bureau of Land Management, Premier Bldg., rm. 906, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:**

David C. Williams or Kenneth E. Harrison (202) 653-8824.


Cy Jamison,
Director.

**BILLING CODE 4310-84-M**
<table>
<thead>
<tr>
<th>State, district, and resource Area</th>
<th>Plan name and type (major resource/issues)</th>
<th>Fiscal year 1990</th>
<th>Fiscal year 1991</th>
<th>Fiscal year 1992</th>
<th>Fiscal year 1993</th>
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<tr>
<td>Phoenix</td>
<td>Kingman RMP (realty, ACEC, grazing, wildlife)</td>
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<td>PRMP/FEIS</td>
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<td>Kingman RMP (realty, ACEC, grazing, wildlife)</td>
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<td>Lower Gila</td>
<td>Lower Gila North RMP (realty, recreation)</td>
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<td>Lower Gila South RMP—Goldwater amendment (military withdrawal)</td>
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<td>ARMP/ROD</td>
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<td>ARMP/ROD</td>
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<td>California:</td>
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<td>Bakerfield</td>
<td>Bishop RMP (grazing, reality, geothermal)</td>
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<td>Caliente</td>
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<td>Caliente RMP (O&amp;G, reality)</td>
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<td>橼inoa RMP (grazing, wildlife, riparian recreation)</td>
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<td>Tulare RMP (grazing, wildlife, riparian recreation)</td>
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<td>Craig</td>
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<td>Idaho</td>
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<td>Owyhee RMP (grazing, wildlife)</td>
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<td>Montana:</td>
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<td>Butte</td>
<td>Dolan RMP (O&amp;G)</td>
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<td>Dolan RMP (O&amp;G)</td>
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<td>Lewistown</td>
<td>Judith Valley/Phillips RMP (O&amp;G, reality, off-road vehicles)</td>
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<td>Judith Valley/Phillips RMP (O&amp;G, reality, off-road vehicles)</td>
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<td>Big Dry</td>
<td>Big Dry RMP (realty, off-road vehicles)</td>
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<td>Big Dry RMP (realty, off-road vehicles)</td>
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<td>Tonopah</td>
<td>Tonopah RMP (O&amp;G, reality)</td>
<td>NOI</td>
<td>DRMP/DEIS</td>
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<td></td>
<td>Tonopah RMP (O&amp;G, reality)</td>
<td>NOI</td>
<td>DRMP/DEIS</td>
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<tr>
<td>Schell</td>
<td>Schell RMP (O&amp;G, reality)</td>
<td>NOI</td>
<td>DRMP/DEIS</td>
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<tr>
<td></td>
<td>Schell RMP (O&amp;G, reality)</td>
<td>NOI</td>
<td>DRMP/DEIS</td>
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<tr>
<td>Las Vegas</td>
<td>Caliente RMP (O&amp;G, reality)</td>
<td>PRMP/FEIS</td>
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<td></td>
<td>Caliente RMP (O&amp;G, reality)</td>
<td>PRMP/FEIS</td>
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<td>Nevada:</td>
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<tr>
<td>State, district, and resource Area</td>
<td>Plan name and type (major resource/issues)</td>
<td>Fiscal year 1990</td>
<td>Fiscal year 1991</td>
<td>Fiscal year 1992</td>
<td>Fiscal year 1993</td>
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<tr>
<td>Stateline</td>
<td>Stateline RMP [Formerly Clark County RMP] (realty)</td>
<td>NOI</td>
<td>DRMP/DEIS</td>
<td>ARMP/ROD</td>
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<tr>
<td>Winnemucca Sonoma-Gerlach</td>
<td>Sonoma-Gerlach RMP (realty)</td>
<td>NOI</td>
<td>DRMP/DEIS</td>
<td></td>
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<tr>
<td>New Mexico: Mimbres</td>
<td>Mimbres RMP (off-road vehicles, realty, mining)</td>
<td>DRMP/DEIS</td>
<td>ARMP/ROD</td>
<td>ARMPA/ROD</td>
<td></td>
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<tr>
<td>Caballo</td>
<td>White Sands RMP—MacGregor Amend. (off-road vehicles)</td>
<td>ARMP/ROD</td>
<td></td>
<td></td>
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<tr>
<td>Roswell</td>
<td>Roswell RMP (O&amp;G, mining, off-road vehicles)</td>
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<tr>
<td>Tulsa</td>
<td>Oklahoma RMP (O&amp;G)</td>
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<tr>
<td>Oregon: Burns Andrews</td>
<td>Andrews RMP (grazing, wildlife, watershed, wild horses &amp; burros)</td>
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<tr>
<td>Three Rivers</td>
<td>Three-Rivers RMP (grazing, wildlife, watershed, reality)</td>
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<tr>
<td>Coos Bay Districtwide</td>
<td>Coos Bay RMP (forestry, watershed, wildlife, reality, ACEC).</td>
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<tr>
<td>Eugene Districtwide</td>
<td>Eugene RMP (forestry, watershed, ACEC, reality)</td>
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<td>Lakeview</td>
<td>Klamath Falls RMP (forestry)</td>
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<td>Modford Districwide</td>
<td>Medford RMP (forestry, wildlife, watershed, reality, ACEC)</td>
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<tr>
<td>Roseburg Districwide</td>
<td>Roseburg RMP (forestry, wildlife, watershed, reality)</td>
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<tr>
<td>Salem Districwide</td>
<td>Salem RMP (forestry, wildlife, watershed, reality)</td>
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<tr>
<td>Vale North Malheur</td>
<td>Malheur RMP (grazing, wildlife, watershed, reality)</td>
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<tr>
<td>Idaho: Cedar City Dixie</td>
<td>Dixie RMP (O&amp;G, realty, recreation, ACEC)</td>
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<tr>
<td>Kanab-Escalante</td>
<td>Kanab-Escalante RMP (Recreation, watershed)</td>
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<tr>
<td>Moab Price River</td>
<td>Price River RMP (O&amp;C, recreation, mining, wildlife, watershed)</td>
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<tr>
<td>San Juan</td>
<td>San Juan RMP (grazing, O&amp;G, recreation, reality)</td>
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<tr>
<td>San Rafael</td>
<td>San Rafael RMP (grazing, O&amp;G, coal leasing, recreation)</td>
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<tr>
<td>Richfield Henry Mountain Salt Lake</td>
<td>Henry Mountain RMP (ACEC, wildlife)</td>
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<tr>
<td>Wyoming: Casper Buffalo Newcastle</td>
<td>Buffalo RMP Revision (O&amp;G)</td>
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<tr>
<td>Medicine Bow/Divide</td>
<td>Great Divide RMP (grazing, wildlife, recreation, O&amp;G)</td>
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</tbody>
</table>

**Table I.—BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE—Continued**
### Table I.—Bureau of Land Management Planning Schedule—Continued

<table>
<thead>
<tr>
<th>State, district, and resource Area</th>
<th>Plan name and type (major resource/issues)</th>
<th>Fiscal year 1990</th>
<th>Fiscal year 1991</th>
<th>Fiscal year 1992</th>
<th>Fiscal year 1993</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rock Springs Green River</td>
<td>Green River RMP (O&amp;G, grazing, wild horses, cultural res. mgmt.)</td>
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<td></td>
<td>DRMP/DEIS</td>
<td>ARMP/ROD</td>
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<tr>
<td>Worland</td>
<td>Cody RMP (O&amp;G, grazing)</td>
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<td>PRMP/FEIS</td>
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<tr>
<td>Grass Creek</td>
<td>Grass Creek RMP (wildlife, watershed)</td>
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<td>ARMP/ROD</td>
<td>NOI</td>
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</tbody>
</table>

### Table II.—Bureau of Land Management High Priority Oil and Gas Plan Amendment Schedule

<table>
<thead>
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<tbody>
<tr>
<td>California:</td>
<td></td>
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<tr>
<td>Hollister</td>
<td>Hollister RMPA (O&amp;G)</td>
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<td>DRMP/DEIS</td>
<td>PRMP/FEIS</td>
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<tr>
<td>Colorado:</td>
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<tr>
<td>Canon City</td>
<td>Combined RMPA (O&amp;G)</td>
<td></td>
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<td>DRMP/DEIS</td>
<td>PRMP/FEIS</td>
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<tr>
<td>Craig, Klamath, Little Snake</td>
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<td>Grand Junction</td>
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<td>Glenwood Springs</td>
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<td>Montana:</td>
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<tr>
<td>Miles City Districtwide</td>
<td>Miles City RMPA (O&amp;G)</td>
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<td>DRMP/DEIS</td>
<td>PRMP/FEIS</td>
</tr>
</tbody>
</table>

Key to Planning Schedule Abbreviations:
- ACEC—Area of Critical Environmental Concern
- AMFPA/DR—Approved Management Framework Plan Amendment/Decision Record
- ARMP/ROD—Approved Resource Management Plan and Record of Decision
- NOI—Notice of Intent
- O&G—Oil and Gas
- PA—Planning Analysis

Key to Oil and Gas Amendment Schedule:
- PRMP/FEIS—Proposed Resource Management Plan Amendment/Final Environmental Impact Statement
- AMFPA/EA—Approved Management Framework Plan Amendment/Environmental Analysis
Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.):

Applicant: James Mitchell Camarillo, CA, PRT-747999.

The applicant requests a permit to import one captive-born male kuhl's deer (Axis (=Corvus) porcinus kuhl) from the Singapore Zoo, Singapore for the purpose of enhancement of propagation and survival of the species.

Applicant: Zenith Smith, CA, PRT-747660.

The applicant requests a permit to travel and live-trap and toe clip salt marsh harvest mice (Reithrodontomys raviventris) in order to monitor the success of a habitat enhancement project near the city of Vallejo, California.

Applicant: Indiana Zoological Society Indianapolis, IN, PRT-747667.

The applicant requests a permit to export six captive-hatched raccoons (Procyon lotor) to the Vancouver Aquarium, Canada, for display purposes.

Applicant: Folsom Childrens Zoo & Botanical Gardens Lincoln, NE, PRT-747447.

The applicant requests a permit to import 10 Rodrigues fruit bats (Pteropus rufus) from the Zoological Society of London, Great Britain for the purposes of enhancement of propagation and survival of the species.

Applicant: San Diego Zoological Society San Diego, CA, PRT-748352.

The applicant requests a permit to purchase one pair of captive-hatched Glorious gazella (Gazella gazaense) from St. Augustine's Alligator Farm, St. Augustine, Florida for the purpose of enhancement of propagation and survival of the species.

Applicant: San Diego Wild Animal Park Escondido, CA, PRT-747438.

The applicant requests a permit to import one captive-born male king cheetah (Acinonyx jubatus rex) and one captive-born female cheetah (.Acinonyx jubatus) from the De Wildt Cheetah Research Center, Pretoria, South Africa for the purpose of captive propagation.

Applicant: U.S. Fish and Wildlife Service Regional Director—Region 4 Atlanta, GA, PRT-691798.

The applicant requests amendment of their current permit to allow take of the Price's potato bean (Apios priceana) and palma de manaca (Colyptromona rivalis) for purposes of scientific research and enhancement or propagation or survival of the species in accordance with Recovery Plans, listing, or other Service work.

Applicant: San Diego Zoo San Diego, CA, PRT-747669.

The applicant requests a permit to purchase in interstate commerce one female captive born ocelot (Felis pardalis) from Fred Boyajian, Atlanta, GA for enhancement of propagation and survival of the species.

Applicant: Biosystems Analysis, Inc. Tiburon, CA, PRT-747801.

The applicant requests a permit to travel and shoot and photograph and release Santa Cruz long-toed salamanders (Ambystoma macrodactylum croceum) in Santa Cruz County, California, for enhancement of propagation and survival of the species. Information obtained by this census will be used when planning development of the site.

Applicant: Bellair's Wild Ducks Monroe, MI, PRT-746703.

The applicant requests a permit to purchase in interstate commerce, one pair of Hawaiian (=nene) geese [Nesochen (=Branta) sandvicensis] from Sylvan Heights Waterfowl, Scotland Neck, NC, for the purpose of breeding to enhance the propagation and survival of the species.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) in room 430, 4401 N. Fairfax, Dr., Arlington, VA 22201, or by writing to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, room 430, Arlington, VA 22201.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: April 12, 1990.

Karen Wilkson,
Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 90-8222 Filed 4-17-90; 8:45 am]
BILLING CODE 4310-55-M

National Park Service

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Meeting and Intention To Prepare an Environmental Impact Statement

Notice is hereby given in accordance with the Federal Advisory Committee Act that a continuation public meeting of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission will be held at five locations in the Bay Area between May 15 and June 2, 1990. A hearing will be held at the Presidio of San Francisco on Tuesday, May 15, 1990, at 7:30 p.m. (p.d.t.) at the Presidio NCO Club, Building 135, Presidio of San Francisco. The hearing will be continued on Tuesday, May 22, 7:30 p.m. at City Council Chambers, 1400 5th Avenue, San Rafael, California. It will be continued again on Tuesday, May 29 at the BART Board Room, 800 Madison St., Oakland, California. The next continuation of the hearing will be on Thursday, May 31, 1990, 7:30 p.m. at the Supervisors' Chambers, Hall of Justice, 401 Marshall, Redwood City, California. The concluding session of the hearing will be on Saturday, June 2, 1990, 9:00 a.m. at Building 201, Fort Mason, San Francisco, California.

This Presidio public hearing held in five locations in the Bay Area will constitute public scoping sessions in preparation for an environmental impact statement. In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91–190, the National Park Service is preparing an environmental impact statement to address the Presidio planning process. The responsible official is Stanley Albright, Regional Director, Western Region, National Park Service. The draft
The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel for members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties. Members of the Commission are as follows:

- Frank Boeger, Chairman
- Amy Meyer, Vice Chair
- Ernest Ayala
- Richard Bartke
- Howard Cogswell
- Brig. Gen. John Crowley, USA (ret)
- Margot Patterson Doss
- Neil D. Eisenberg
- Jerry Friedman
- Steve Jeong
- Daphne Greene
- Gimmy Pak Li
- Gary Pinkston
- Merritt Robinson
- R. H. Sciaroni
- Mr. John J. Spring
- Richard Bartke
- Dr. Howard Cogswell
- Mr. Frank Boeger
- Ms. Amy Meyer
- Mr. Ernest Ayala
- Mr. Richard Bartke
- Dr. Howard Cogswell
- Brig. Gen. John Crowley, USA (ret)
- Mr. Margot Patterson Doss
- Mr. Neil D. Eisenberg
- Mr. Jerry Friedman
- Mr. Steve Jeong
- Ms. Daphne Greene
- Mr. Gimmy Pak Li
- Mr. Gary Pinkston
- Mr. Merritt Robinson
- Mr. R. H. Sciaroni
- Mr. John J. Spring
- Dr. Edgar Wayburn
- Mr. Joseph Williams

The main agenda item at this public hearing will be public response on Presidio planning guidelines. The NPS planning process for the Presidio, and issues and concerns relating to the planning effort by the National Park Service for the Presidio when the U.S. Army vacates the area in accordance with the Base Closure and Realignment Act of 1989. Under PL–92–589, signed October 27, 1992, when all or any part of the Presidio of San Francisco is determined by the Department of Defense to be in excess to its needs, such lands shall be transferred to the Department of the Interior, National Park Service, to be part of the Golden Gate National Recreation Area.

The public hearing announced above will be the first of many such public meetings over the next two to three years in the National Park Service planning process for the Presidio. Statements of issues and concerns will be accepted through July 18, 1990. The meeting is open to the public.

Persons wishing to receive a copy of the Presidio Planning Guidelines should contact the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Fort Mason, San Francisco, California 94123 or telephone (415) 556-4484.

This meeting will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. A transcript is available after July 20, 1990. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.


Lewis S. Albert,
Deputy Regional Director, Western Region.

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission will be held at 10:30 a.m. (Pdt) on Saturday, May 19, 1990, at the West Marin School, Point Reyes Station, California.

The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties.

Members of the Commission are as follows:

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- Gimmy Pak Li
- Gary Pinkston
- Merritt Robinson
- R. H. Sciaroni
- John J. Spring
- Richard Bartke
- Dr. Howard Cogswell
- Joseph Williams

The first agenda item at this public meeting will be a Resource Management Report, including grazing, a report by the Soil Conservation Service, and a report on the Olema Creek Study. The second agenda item will be a Report on the Proposed Rehabilitation of the Parking Areas at Chimney Rock, Abbott's, and Drake's Beach. The third agenda item will be a report on the Drake's Beach Visitor Center exhibit expansion. The fourth agenda item will be a report on the status of other proposed exhibits, including a Pierce Point exhibit and roadside exhibits.

Also included will be a Superintendent's Report.

Interested individuals, representatives of organizations, and public officials are invited to express their views in person at the aforementioned public meeting.

Those not wishing to appear in person may submit written statements to the General Superintendent of the Golden Gate National Recreation Area on these items. Statements will be accepted until May 31, 1990.

The meeting is open to the public.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123, telephone (415) 556-4484.

This meeting will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval of the full Advisory Commission. A transcript is available after June 18, 1990. For copies of the minutes contact the Office of the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.


Lewis S. Albert,
Deputy Regional Director, Western Region.

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 and related forms may be obtained by contacting the Bureau's clearance officer 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.

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Comments and suggestions on the requirements should be made directly to the bureau clearance officer and to the Office of Management and Budget.
INTERNATIONAL TRADE COMMISSION
[332-237]

Production Sharing; U.S. Imports Under Harmonized Tariff Schedule


ACTION: Scheduling of 1990 report.


SUPPLEMENTARY INFORMATION: Harmonized Tariff Schedule (HTS) subheading 9802.00.60 (formerly Tariff Schedules of the United States (TSUS) item 807.30) involves tariff treatment for metal of U.S. origin processed in a foreign location and returned to the United States for further processing; subheading 9802.00.80 (formerly TSUS item 807.00) involves tariff treatment for imported goods that contain U.S.-made components.


WRITTEN SUBMISSION: No public hearing is planned. However, since monitoring imports under HTS subheadings 9802.00.60 and 9802.00.80 is a continuing endeavor of the Commission, written statements concerning the investigation are welcome at any time. However, to be considered in the 1990 investigation, submissions must be received at the Commission by September 1, 1990. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, S.W., Washington, DC 20436.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 252-1810.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202-252-1184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.]

SUPPLEMENTARY INFORMATION: Participation in the investigation:

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

[Investigation No. TA-201-62]

Import Investigation; Certain Cameras


ACTION: Institution of an investigation under section 202 of the Trade Act of 1974 (19 U.S.C. 2252) (the act) and scheduling of public hearings to be held in connection with the investigation.

SUMMARY: Following receipt of a petition filed on March 29, 1990, by the Keystone Camera Company, Clifton, NJ, the United States International Trade Commission instituted investigation No. TA-201-62 under section 202 of the Trade Act of 1974 to determine whether certain cameras, provided for in subheadings 9006.52.10 and 9006.53.00 of the Harmonized Tariff Schedule of the United States (previously provided for under items 722.06, 722.11, and 722.16 of the Tariff Schedules of the United States), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The petition alleges that critical circumstances exist within the meaning of section 203(b)(3)(B) and seeks provisional relief. The Commission will make its injury and critical circumstances determinations (assuming the latter is necessary) in this investigation by July 27, 1990 (see section 202(b)(2) of the act [19 U.S.C. 2252(b)(2)]).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 206, subparts A and B (19 CFR part 206), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: March 29, 1990.

[FOR FURTHER INFORMATION CONTACT: Andrew F. DeVito, (202) 343-1479.]

[1] The imported articles covered by this investigation include two categories of photographic (other than cinematicographic) cameras for roll film; all fixed-focus, hand-held cameras (subheading 9006.52.10); and all hand-held, 35mm cameras other than single-lens-reflex ("SLR") cameras (subheading 9006.53.00).
Service list. Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Public hearings on injury and remedy. The Commission has scheduled separate public hearings in connection with the injury and remedy phases of the investigation. The hearing on injury will be held beginning at 9:30 a.m. on June 20, 1990, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on June 8, 1990. All persons desiring to appear at the hearing and make oral presentations, with the exception of public officials and persons not represented by counsel, should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on June 12, 1990, at the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 13, 1990. Posthearing briefs must be submitted not later than the close of business on June 27, 1990. Confidential material should be filed in accordance with the procedures described below.

In the event that the Commission makes an affirmative injury determination or a determination on critical circumstances and provisional relief, public hearings will be held on or before June 29, 1990. All persons desiring to appear at the hearing and make oral presentations, with the exception of public officials and persons not represented by counsel, should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on June 20, 1990, at the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 21, 1990. Posthearing briefs must be submitted not later than the close of business on June 27, 1990. Confidential material should be filed in accordance with the procedures described below.

In the event that the Commission makes an affirmative injury determination or is equally divided on the question of injury in this investigation, a hearing on the question of injury will be held beginning at 9:30 a.m. on August 21, 1990, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, D.C. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on August 7, 1990, and all briefs must conform with the requirements of § 201.6 of the Commission's rules.

Critical circumstances. Persons wishing to submit views on the issues of critical circumstances and provisional relief should submit them during the injury phase of the investigation and/or in conjunction with the Commission's public hearing on injury.

Authority: This investigation is being conducted under the authority of section 337 of the Tariff Act of 1930. This notice is published pursuant to § 201.10 and 206.3 of the Commission's rules (19 CFR 201.10, 206.3)

By order of the Commission.


Kenneth R. Mason,
Secretary.

[FR Doc. 90-4974 Filed 4-17-90; 8:45 am]

BILLING CODE 7025-02-M

[Investigation No. 337-TA-291]

Certain Insulated Security Chests; Termination of Investigation on Basis of a Determination of No Violation of Section 337 of Tariff Act of 1930

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission has determined to terminate the above-referenced investigation based upon a finding that there is no violation of section 337 of the Tariff Act of 1930.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436; telephone 202-252-1088. Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202-252-1810.


On January 8, 1989, the ALJ issued an ID finding no violation of section 337 in this investigation with regard to the importation and sale of insulated security chests alleged to infringe the '926 patent and the '582 patent. On January 24, 1990, the Commission determined to review the issues of literal infringement of elements (a) and (b) of claim 1 of the '926 patent, construction of the term "ambient fire" as used in the '926 patent, and infringement of element (b) of claim 1 of the '926 patent under the doctrine of equivalents. 55 FR 7044 (Feb. 28, 1990). All the parties submitted briefs, and later reply briefs, on the issues under review. No other submissions were received. The ALJ's findings on those
Commission determined not to review issues addressed in the ID that the Commission determined not to review became the determinations of the Commission. Having examined the record in this investigation, including the ID, the Commission determined that there was no violation of section 337. The authority for the Commission’s disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in section 210.56 of the Commission’s Interim Rules of Practice and Procedure (19 CFR 210.56).

Copies of the Commission’s Order, the nonconfidential version of the Commission’s Opinion, the ID, and all other nonconfidential documents filed in connection with this investigation are, or will be, available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone: 202-252-1000.

By order of the Commission.
Kenneth R. Mason, Secretary.

[FR Doc. 90-8966 Filed 4-17-90; 8:45 am] BILLING CODE 7020-02-M

[Investigation No. 337-TA-295]
In the Matter of Certain Novelty Teleidoscopes; Issuance of Limited Exclusion Order
ACTION: Notice.
SUMMARY: Notice is hereby given that the Commission has issued a limited exclusion order in the above-captioned investigation.
SUPPLEMENTARY INFORMATION: The authority for this action is conferred by section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and by the Commission interim rule § 210.25(c) (19 CFR 210.25(c)).


On October 18, 1989, the ALJ issued an ID granting motions to terminate the investigation as to respondents China Toy and Novelty Co. and Western Novelty Co. on the basis of settlement agreements, and on October 19, 1989, he issued an ID granting a motion to terminate respondent Universal Specialties Co. on the basis of a settlement agreement. The Commission determined not to review either ID. The ALJ, on October 25, 1989, issued two IDs granting motions to terminate respondents Imperial Toy Corp. and Importoys, Inc., on the basis of settlement agreements. The Commission determined not to review the ID. On November 27, 1989, the ALJ issued an ID granting a motion to terminate respondent Man’s Trading Co. on the basis of a consent order. Again, the Commission determined not to review the ID.

All of the respondents in this investigation have either been terminated from the investigation or found in default. The six defaulting respondents are: New Lon Industries Co., Prosperity Industrial Co., Fred Kort International, Universal Manufacturing Co., Rich Trees International, and ABC Cosmos Trading Co., Ltd.

On December 1, 1989, in response to an order from the ALJ, complainant provided notice that it seeks limited exclusion orders against all respondents found to be in default.

The Omnibus Trade and Competitiveness Act of 1988, Public Law
ACTION: Nonreview of initial determination (ID) granting complainant's motion to terminate the investigation with prejudice.

SUMMARY: The Commission has determined not to review the ID (Order No. 11) terminating the above-captioned investigation. The ID was based upon complainant Cascade Designs, Inc.'s motion to terminate the investigation. The motion was opposed by respondents Gymwell Corporation and Goodway Corporation. The Commission investigative attorney did not oppose the motion. Respondents filed a petition for review of the ID. No agency comments were filed.

FOR FURTHER INFORMATION CONTACT: Rhonda M. Hughes, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 252-1883. Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal at (202) 252-1802.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission interim rule § 210.53 (10 CFR 210.53).

Respondents filed a request that the Commission institute an ancillary proceeding to determine if complaint has abused Commission process. The Commission will decide at a later date whether to institute such a proceeding.

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E. Street SW., Washington, DC 20436, telephone 202-252-1000. Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal at 202-252-1810.

By order of the Commission.


Kenneth R. Mason,
Secretary.

[FR Doc. 90-8968 Filed 4-17-90; 8:45 am]
BILLING CODE 7020-02-M

Commission.

ACTION: Institution of investigation, scheduling of hearing, and request for comments in connection with the investigation.

EFFECTIVE DATE: April 5, 1990.

SUMMARY: Following receipt on March 2, 1990 of a request from the Committee on Finance, U.S. Senate, and March 12, 1990 of a similar request from the Committee on Ways and Means, U.S. House of Representatives, the Commission instituted Investigation No. 332-291 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) for the purpose of providing the following information on the competitive conditions of the U.S. and European canned tuna industries in domestic and foreign markets:

(1) The U.S. Industry—Levels and trends in technology, number of operations, employment and wages, sources of raw tuna used by the processing sector, production, capacity, major markets, inventories, costs, productivity, financial experience, changes in industry structure such as ownership changes in the tuna canning sector, steps the U.S. fleet and processors have taken to adjust to import competition and the results of such measures, the availability of tuna resources, and government involvement in the industry.

(2) Foreign Industries—Information on the tuna industry in the EC and in other important producing countries. To the extent information can be readily obtained, this would include levels and trends in technology, number of operations, employment and wages, sources of raw tuna used by the processing sector, production, capacity, major markets, inventories, costs, productivity, financial experience, industry structure, the availability of tuna resources to foreign fleets, and government involvement in the industry.

(3) The U.S. Market—A description of the tuna market, channels of distribution, supply and demand factors, inspection standards and procedures, levels and trends in U.S. consumption, trade, and prices for both domestic and foreign raw and canned tuna.

(4) The European Market—A description of the market for raw and canned tuna, channels of distribution, supply and demand factors, inspection standards and procedures, levels and trends in consumption, trade, and prices for both domestic and foreign raw and canned tuna.

(5) Trade-distorting Practices Maintained by the European Community and Other Major Producing and Consuming Areas—To the extent possible, a description and assessment of the competitive effects on U.S. and
foreign tuna industries of the following:
tariffs and other trade barriers
encountered by U.S. or third-country
exporters; and EC fishery agreements
with nations and island states in the
Indian Ocean and elsewhere, that may
restrict access of U.S.-flag tuna vessels
to tuna resources within the waters of
such nations and island states. This
assessment would include, inter alia, an
evaluation of the likely competitive
effects on U.S. and European production
and trade of an equalization of U.S. and
EC tariffs and other trade barriers in the
markets for raw and canned tuna.

As requested by the Committees, the
Commission will seek to report the
results of its investigation by December 3,
1990.

FOR FURTHER INFORMATION CONTACT:
Roger Corey (202-252-1327) or David
Ingersoll (202-252-1309), Agriculture
Division, Office of Industries, U.S.
International Trade Commission.

Heating-impaired persons can obtain
information on this investigation by
calling the Commission’s TDD
terminal on (202) 252-1810.

PUBLIC HEARING: A public hearing in
connection with this investigation will
be held in the Commission Hearing
Room, 500 E Street SW., Washington,
DC, 20439, beginning at 9:30 a.m. on
August 16, 1990. All persons have the
right to appear by counsel or in person,
present information, and to be heard.
Persons wishing to appear at the public
hearing should file a letter asking to
testify (state the names and titles of
witnesses) with the Secretary, United
States International Trade Commission,
Office of Public Services, 500 E Street
SW., Washington, DC 20439.

Persons may file written statements
concerning the investigation. Written
submissions, except for confidential
business information, will be made
available for inspection by interested
persons. All submissions should be
addressed to the Secretary at the
Commission’s office in Washington, DC.

Issued: April 6, 1990.

Kenneth R. Mason,
Secretary.

[F.D.R. Doc. 90-8972 Filed 4-17-90; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE
COMMISSION

(Finance Docket No. 31619)

C&S Railroad Corp. Modified Rail Certificate

On March 12, 1990, a notice was filed by
C&S Railroad Corporation (C&S) for a
modified certificate of public
convenience and necessity under 49
CFR 1150.23. By agreement with the
Carbon County Railroad Commission
(CCRRC) and the Schuylkill County Rail
Transport Authority (SCRTA), C&S is
authorized to operate over rail lines:
1. Between Packerton junction, PA
(milepost 0.0) and Haucks, PA (milepost
19.5), a distance of 19.5 miles (the
Nesquehoning Branch); [2] between East
Mahoneymoon Junction, PA (milepost
103.0) and Lofty, PA (milepost 110.4), a
distance of 7.4 miles (the Catawissa
Branch); and (3) between York Junction,
PA (milepost 143.3) and Delano, PA
(milepost 158.2), a distance of 9.9 miles
(the Shimer Running Track). The lines to
be operated connect with Consolidated
Rail Corporation (Conrail) at Packerton
Junction and York Junction.

Prior to abandonment, the
Nesquehoning Branch was owned by
Reading Company (Reading). It was not
conveyed to Conrail under the Final
System Plan. Operations were continued
on the line by Conrail as designated
operator appointed by the Pennsylvania
Department of Transportation. The line
was acquired and is currently owned by
the County of Carbon and is
administered by CCRRC. The Catawissa
Branch also was owned by Reading and
not conveyed to Conrail under the Final
System Plan. The line was acquired and
is currently owned by SCRTA. The
Shimer Running Track was abandoned
by Conrail pursuant to the Commission’s
decision in Docket No. AB-167 (Sub-No.
397 N), Conrail Abandonment Between
York Jct. and Delano, PA (not printed),
served June 8, 1983, and is now owned by
SCRTA.

The Panther Valley Railroad
Company (PVRR) was the previous
operator over the lines pursuant to
modified certificates issued in Finance
Docket No. 30525, Panther Valley
Railroad Corporation Modified Rail
Certificate (not printed), served August
23, 1983, and Finance Docket No. 31049,
Panther Valley Railroad Corp. Modified
Rail Certificate (not printed), served June
13, 1987. PVRR terminated its
service on March 10, 1990, pursuant to a
notice filed with the Commission on

This notice must be served on the
Association of American Railroads (Car
Service Division), as agent of all
railroads subscribing to the car-service
and car-hire agreement, and on the
American Short Line Railroad
Association.


By the Commission, June F. Mackrell,
Director, Office of Proceedings.

Noreta R. McGee,
Secretary.

[FR Doc. 90-8880 Filed 4-17-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant
to the Clean Air Act

In accordance with Departmental
policy, 28 CFR 50.7, notice is hereby
given that on April 6, 1990, a proposed
Consent Decree in United States v. Lyon
& Associates Realty, et al., Civil Action
No. CIVS 89-0809 RAR-EM, was lodged
with the United States District Court for
the Eastern District of California. The
Complaint sought penalties and injunctive
relief against Lyon &
Associates Realty, George E. King,
Construction and Frederick B. Curtis,
Inc. for violations of regulations issued
under the Clean Air Act, 42 U.S.C. 7601
et seq., regarding the handling and
disposal of friable asbestos. 40 CFR
61.149-61.156.

The proposed Consent Decree
imposes an injunction against future
violations of the Clean Air Act,
including specific steps to assure proper
procedures are followed with respect to
notification to regulatory agencies and
with respect to the handling and
disposal of asbestos. The proposed
Consent Decree also imposes a civil
penalty of $35,000.

The Department of Justice will receive
for a period of thirty (30) days from the
date of this publication, comments
relating to the proposed Consent Decree.
Comments should be addressed to the
Assistant Attorney General of the Land
and Natural Resources Division,
Department of Justice, P.O. Box 7611,
Washington, D.C. 20044.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of California, 3305 Federal Building, 650 Capitol Mall, Sacramento, California 95814, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, room 1647(d), Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

In requesting a copy, please enclose a check in the amount of $2.40 (10 cents per page reproduction cost) payable to the "Treasurer of the United States".

George W. Van Cleve,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 90-8990 Filed 4-17-90; 8:45 am]
BILLING CODE 4410-01-M

Antitrust Division

Industry Cooperative for Ozone Layer Protection, Inc.; Notification

Notice is hereby given that, on March 13, 1990, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 et seq. ("the Act"), the participants in the Industry Cooperative for Ozone Layer Protection, Inc. ("ICOLP"), filed a written notification simultaneously with the Antitrust Division disclosing changes in the program. Thereafter, on March 20, 1990, additional notifications were filed reflecting the addition of a party to the program and the deletion of a party to the program. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties participating in ICOLP, together with the nature and objectives of the research program, are given below.

The current parties to ICOLP identified by this notice are:

ICOLP Representative, AT&T, 3WA149, One Oak Way, Berkeley Heights, NJ 07922.
ICOLP Representative, The Boeing Company, P.O. Box 3707-Mail Stop 6U-02, Seattle, WA 98007.

ICOLP Representative, Compaq Computer Corporation, M09304, 20555 SH 249, Houston, TX 77070.
ICOLP Representative, Digital Equipment Corporation, CP02-11440, 150 Coulier Drive, Concord, MA 01742.
ICOLP Representative, Electronic Industries Association, 1722 Eye St., NW Suite 200, Washington, DC 20006.
ICOLP Representative, General Electric, W-1D, 3135 Easton Turnpike, Fairfield, CT 06431.
ICOLP Representative, Halogenated Solvents Industrial Alliance, Suite 300, 125 19th St., NW., Washington, DC 20036.
ICOLP Representative, Honeywell, MN12-3175, Honeywell Plaza, Minneapolis, MN 55408.
ICOLP Representative, Motorola, T-7, 1303 E. Algonquin Rd., Schaumburg, IL 60196.
ICOLP Representative, Northern Telecom, P.O. Box 48, Stouffville A, Mississauga, Ontario, Canada L5A3A2.
ICOLP Representative, Sundstrand, Dept. 789, 4747 Harrison Avenue, Rockford, IL 61125.
ICOLP Representative, Texas Instruments, MS9310, P.O. Box 50059, 13500 N. Central Expressway, Dallas, TX 75250.

ICOLP Representative, Compag Computer Corporation, M09304, 20555 SH 249, Houston, TX 77070.
ICOLP Representative, Digital Equipment Corporation, CP02-11440, 150 Coulier Drive, Concord, MA 01742.
ICOLP Representative, Electronic Industries Association, 1722 Eye St., NW Suite 200, Washington, DC 20006.
ICOLP Representative, General Electric, W-1D, 3135 Easton Turnpike, Fairfield, CT 06431.
ICOLP Representative, Halogenated Solvents Industrial Alliance, Suite 300, 125 19th St., NW., Washington, DC 20036.
ICOLP Representative, Honeywell, MN12-3175, Honeywell Plaza, Minneapolis, MN 55408.
ICOLP Representative, Motorola, T-7, 1303 E. Algonquin Rd., Schaumburg, IL 60196.
ICOLP Representative, Northern Telecom, P.O. Box 48, Stouffville A, Mississauga, Ontario, Canada L5A3A2.
ICOLP Representative, Sundstrand, Dept. 789, 4747 Harrison Avenue, Rockford, IL 61125.
ICOLP Representative, Texas Instruments, MS9310, P.O. Box 50059, 13500 N. Central Expressway, Dallas, TX 75250.

The Technology and Innovation Branch of the United States Environmental Protection Agency’s Division of Global Change is also participating in ICOLP pursuant to a Memorandum of Understanding. Their address is Mailcode ANR-445, 401 M Street SW., Washington, DC 20460.

The nature and planned activities of ICOLP are: (1) To encourage prompt use of safe, environmentally acceptable alternatives to the current use of ozone depleting substances; (2) to act as clearinghouse for information concerning safe, environmentally acceptable alternatives for existing uses of ozone depleting substances; and (3) to work with existing private, national and international entities, organizations and government bodies to create, gather and distribute information on such alternatives. Membership in ICOLP remains open and the parties intend to file additional written notification disclosing all changes in membership.

Open Software Foundation, Inc.; Notification

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"), Open Software Foundation, Inc. ("OSF") on January 22, 1990, filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The additional notification was filed for the purpose of extending the protections of section 4 of the Act limiting recovery of antitrust plaintiffs to actual damages under specific circumstances.


The identities of the new, non-voting members of OSF are as follows:

<table>
<thead>
<tr>
<th>Member</th>
<th>Date</th>
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<tbody>
<tr>
<td>Los Alamos National Laboratory</td>
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<td>Raytheon Company</td>
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<td>NASA Software Support Environment Project</td>
<td>10/19/89</td>
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<td>University of Alaska Fairbanks</td>
<td>10/20/89</td>
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<tr>
<td>University of Dublin, Trinity College</td>
<td>10/20/89</td>
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<tr>
<td>Asea Brown Bovery B.</td>
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<td>Chorus Systems</td>
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<td>General Electric Company</td>
<td>10/25/89</td>
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<tr>
<td>New York University</td>
<td>10/30/89</td>
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<tr>
<td>Star Division</td>
<td>11/02/89</td>
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<tr>
<td>Encore Computer Corporation</td>
<td>11/03/89</td>
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<tr>
<td>Indian Institute of Technology—Bombay</td>
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<td>University of Tromso</td>
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<td>E.I. du Pont de Nemours &amp; Co.</td>
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<tr>
<td>Intergraph Graphics Users Group</td>
<td>01/10/90</td>
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</table>

BILLING CODE 4010-01-M
Director of Operations, Antitrust Division.

Federal Register

14494

Joseph H. Widmar,
Director of Operations, Antitrust Division.

BILLING CODE 4410-01-M

Petroleum Environmental Research Forum; Notification

Notice is hereby given that, on March 14, 1990, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 et seq. ("the Act"), the participants in the Petroleum Environmental Research Forum ("PERF") Project No. 88-09, titled "Preparation of a Natural Resource Damage Assessment Procedure Manual," filed a written Notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of a party to its group research project regarding "High-Temperature Resistant Diesel Particulate Trap." 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. Specifically, the SwRI advised that Komatsu, Ltd. (effective January 16, 1990) has become a party to the group research project.

No other changes have been made in either the membership or planned activity of the group research project.

On August 31, 1988, SwRI 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 September 27, 1988, 53 FR 37654-37655. On November 2, 1988, SwRI filed an additional written notification. The Department published a notice in the Federal Register in response to the additional notification on December 2, 1988, 53 FR 49735. On November 8, 1989, SwRI filed an additional written notification. The Department published a notice in the Federal Register in response to the additional notification on December 13, 1989, 54 FR 31239.

Joseph H. Widmar,
Director of Operations, Antitrust Division.

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 89-741]

Stanley D. Carlson, D.D.S., Denial of Application

On July 14, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Stanley D. Carlson, D.D.S., Respondent, of 1920 Oaklawn Drive, Eau Claire, Wisconsin. The Order to Show Cause proposed to deny Respondent's pending application for registration, executed on June 29, 1987, on the ground that his registration would be inconsistent with the public interest.

Respondent, pro se, timely requested a hearing on the issues raised in the Order to Show Cause and the matter was placed on the docket of Administrative Law Judge Mary Ellen Bittner. Following prehearing procedures, an administrative hearing was held on June 1, 1989, in Milwaukee, Wisconsin. At the hearing, Government counsel presented the testimony of two witnesses, a DEA Division Investigator and Wisconsin State Investigator, and introduced 24 documents. Respondent testified in his own behalf and did not introduce documentary evidence.

Following the hearing Government counsel filed proposed findings of fact, conclusions of law and argument. Although given an opportunity to file the same, Respondent did not make any filings prior to the issuance of the administrative law judge's opinion and recommended ruling.

On December 7, 1989, Judge Bittner issued her opinion and recommended ruling, findings of fact, conclusions of law and decision. She concluded that to issue Respondent a DEA Certificate of Registration would be contrary to the public interest and recommended that the Administration deny Respondent's pending application for registration.

Government counsel did not file any exceptions.

On December 11 and 12, 1989, Respondent sent correspondence to Government counsel requesting another hearing. Respondent claimed that the administrative law judge "seemed to know little about legal drugs, their history, usage, etc.," that she "should not have the authority alone to determine my [Respondent's] future," and that she "was not properly informed by the State of Wisconsin's Female Attorney regarding my past employment and character," and that "if I am offered another hearing, I request a male judge." Government counsel filed the correspondence with the administrative law judge. On January 15, 1990, Judge Bittner sent a letter to Respondent stating that the letters he submitted earlier would be considered as exceptions to her opinion and recommended ruling. She also enclosed a copy of the relevant pages of the transcript detailing Respondent's post-hearing rights.

On January 18 and February 8, 1990, Respondent sent letters to the Administrator, again expressing his displeasure with the hearing process and requesting a new hearing.

After careful consideration of the entire record in this matter, including Respondent's correspondence, the Acting Administrator finds that Respondent was given a full and fair hearing. The Government's case was disclosed to him prior to the hearing through the filing of prehearing statements; he was permitted to call any witnesses and introduce any evidence.
he deemed necessary to present his case (it should be noted that Respondent chose not to introduce any documentary evidence or call any witnesses other than himself), he was able to cross-examine the Government's witnesses and to object to testimony and documentary evidence. The Acting Administrator finds that the administrative law judge's prehearing ruling were concise and self-explanatory. He also finds that the administrative law judge carefully and thoroughly explained Respondent's rights and obligations to him during the hearing process. As evidenced by her opinion, Judge Bittrner considered all of the evidence presented at the hearing before making her recommendation. Therefore, the Acting Administrator finds no merit in Respondent's allegation that the administrative law judge was biased or prejudiced against him. Thus, Respondent shall not be granted a new hearing.

After reviewing all of the testimony and documentary evidence in this case, including Respondent's exceptions and correspondence, the Acting Administrator adopts the administrative law judge's findings of fact, conclusions of law and recommendations as his own.

The Acting Administrator finds that Respondent holds both M.D. and D.D.S. degrees and was 68 years old as of the date of the DEA administrative hearing. He was initially licensed to practice medicine in the State of Wisconsin in 1958. According to a deposition taken in connection with a state investigation discussed below, Respondent entered the Navy, after finishing dental school and then entered medical school several years after his discharge. After completing his medical internship, Respondent became medical director of Northern Colony, a state institution for mentally retarded adults. Respondent worked at that institution until 1982. He left following a dispute with the institution's superintendent. After leaving Northern Colony, Respondent practiced as a physician in a solo practice. Although he maintains a Wisconsin license to practice dentistry, Respondent testified that he does not currently have a dental practice and has not had a dental practice for several years.

In May 1985, during an inspection of an Eau Claire pharmacy, an investigator from the Wisconsin Department of Regulations and Licensing (hereinafter referred to as the "Licensing Department") noticed a substantial number of prescriptions issued by Respondent for Dilaudid, a Schedule II controlled substance. Consequently, Investigator Sue Schaut, an investigator with the Licensing Department assigned to the Medical Examining Board (hereinafter referred to as the "Medical Board"), reviewed several hundred prescriptions issued by Respondent, interviewed Respondent and some of his patients, and also reviewed his patient records. On the basis of this investigation, Investigator Schaut concluded that five or six of Respondent's "patients" were receiving controlled substances more frequently and in larger quantities than was justified by the information in their medical records. The medical records indicated that all of these patients were being treated for "chronic pain," and one patient was treated for a short time for depression.

On June 6, 1985, Investigator Schaut interviewed Respondent and asked him about the prescriptions he issued for certain patients. Respondent provided information and told her that he had felt he had the situation under control, that he always prescribed small quantities of Schedule II controlled substances so he could control the amount of drugs taken, that he had never over-prescribed for any patient, and that all but two of the patients at issue had been initially prescribed Schedule II drugs by other physicians. Respondent also stated that his patients could not afford to go to pain clinics, and that he gave them the drugs because the patients wanted them and other doctors in the area refused to treat these individuals. Respondent further told Investigator Schaut that he suspected that several of his patients were abusing the drugs, but that he felt he had no choice but to prescribe for them.

At the request of the Medical Board, Jeffrey Patterson, M.D., an associate professor at the University of Wisconsin Medical School and a specialist in treating chronic pain, reviewed the information obtained by Investigator Schaut. He concluded that Respondent had not adequately examined or taken the medical history of any of the patients in question, that he prescribed excessive amounts of the drugs for excessive periods of time, and that he was providing pain medication without treating the underlying causes of the pain. Dr. Patterson also found that Respondent maintained or furthered the drug addiction of most of these patients and, in some instances, his treatment did not meet minimal acceptable medical standards.

Investigator Schaut testified that the Eau Claire police told her that three of the patients in question were known drug abusers, that another had been imprisoned for selling cocaine, and that another had been convicted of burglary. The police further told Investigator Schaut that there had been a break in at Respondent's medical office, and that a few nights later police saw Respondent and another man enter Respondent's office around midnight or 1:00 a.m. and that Respondent gave the other man an injection of Demerol. Investigator Schaut's testimony about the incident was corroborated by DEA Diversion Investigator James Portner, who testified that DEA had also been advised of the incident by the Eau Claire Police Department.

During the DEA hearing, Respondent testified that he "did nothing that was illegal," that he felt sorry for these patients, and that the most he was ever paid for an office visit was $60. He further testified that he usually was unable to perform physical examinations on these patients because they protested and cried. Finally, Respondent testified that about two and a half years before the DEA hearing he attended a two or three day course in treating chronic pain and that, "It made me feel bad in that everything I did seemed to be right as far as those doctors were concerned."

On June 21, 1985, Investigator Schaut filed a complaint against Respondent with the Medical Board alleging that Respondent's care of patients "fell below minimal standards of acceptable medical practice" and that Respondent prescribed excessive amounts of controlled substances to these patients for an excessive period of time. On December 4, 1985, Respondent executed a stipulation, waiving his right to a hearing and admitting to one count of the complaint which alleged that he failed to adequately examine and evaluate one patient's medical condition, that he failed to adequately inquire into the underlying medical cause of the symptoms presented by the patient, and that he failed to adequately treat the patient's alleged chronic pain. Respondent agreed to voluntarily surrender his license to practice in Wisconsin and to comply with various requirements, including an oral examination by the Medical Board, before resuming the practice of medicine. On December 12, 1985, the Medical Board accepted the stipulation and entered its final order, in which it directed, inter alia, Respondent not to surrender his license to practice in Wisconsin and to comply with various requirements, including an oral examination by the Medical Board, before resuming the practice of medicine. On December 12, 1985, the Medical Board accepted the stipulation and entered its final order, in which it directed, inter alia, Respondent not to surrender his license to practice in Wisconsin and to comply with various requirements, including an oral examination by the Medical Board, before resuming the practice of medicine.
his competence the Board deemed necessary. All allegations of the complaint except those which Respondent admitted were dismissed. Approximately six months after surrendering his medical license, Respondent unsuccessfully applied for reinstatement. Since that time, he has applied for reinstatement approximately annually. His most recent petition was denied on April 20, 1989. The Medical Board’s order of May 21, 1987, specified, in pertinent part, that as a condition for admittance to further oral examination by the Medical Board, Respondent was to submit to an evaluation to determine whether he had any impairment, including alcohol dependence, which would prevent him from safely practicing medicine and surgery, that if that evaluation indicated a need for treatment Respondent was to successfully complete a specified impaired physicians program, and that if the director of that program notified the Medical Board that Respondent either was not impaired or had successfully completed the required program, Respondent would be permitted to reapply for oral examination. The order further directed that at the time he applied for further oral examination, Respondent was to submit evidence that (1) he had completed courses in various areas, including the prescribing and dispensing of controlled substances; and (2) a physician licensed to practice medicine and surgery in Wisconsin had agreed to supervise him.

During cross-examination at the DEA hearing, Respondent was asked whether he had ever provided the Medical Board with the requisite evaluation from the director of an impaired physicians program. Respondent conceded that he had not. Respondent testified that for several years he took Butisol Sodium, and that he admitted himself to the treatment program, but left because, “I couldn’t stand it.” Respondent further testified that he stopped taking drugs and no longer craved them. According to Respondent, on one occasion when he met the Medical Board, he should not have done so because he had a broken back, and he felt that “the case was cut and dried before I went before the Medical Board.”

As of the date of the hearing, Respondent had not been reinstated to the practice of medicine in Wisconsin. However, his dental license remained in effect.

Following his surrender of his Wisconsin medical license, an Order to Show Cause was issued against him proposing to revoke his then-current DEA Certificate of Registration. Thereafter, on September 25, 1986, Respondent voluntarily surrendered that registration. He has not since been registered by DEA.

Respondent testified on cross-examination that he “went into retired status” in Arizona, but that he was not licensed to practice medicine there. Respondent acknowledged that in July 1986, the Executive Director of the Arizona Board of Medical Examiners wrote to him advising of the Board’s determination that he would not be allowed to practice medicine in Arizona until he had undergone an oral competency examination, a physical examination, and mental status testing. Subsequently, Respondent was directed by the Arizona Medical Board to complete an Impaired Professional Program and obtain a report from the program indicating that he was capable of returning to the practice of medicine and surgery. Respondent conceded at the DEA hearing that he had not complied with these directives.

The Administrator may revoke a DEA Certificate of Registration and/or deny an application for registration if he determines that the continued registration of the registrant would be inconsistent with the public interest. 21 U.S.C. 823(f) and 824(a)(4). Pursuant to 21 U.S.C. 823(f), “[i]n determining the public interest, the following factors will be considered:

1. The recommendation of the appropriate State licensing board or professional disciplinary authority.
2. The applicant’s experience in dispensing, or conducting research with respect to controlled substances.
3. The applicant’s conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlling substances.
4. Compliance with applicable State, Federal, or local laws relating to controlled substances.
5. Such other conduct which may threaten the public health and safety.

The Administrator may properly rely on any one or a combination of those factors, and give each factor the weight he deems appropriate, in determining whether a registration should be revoked or an application for registration should be denied. Henry J. Schwarz, Jr., M.D., Docket No. 88-35, 54 FR 16422 (1989). In this case, all but the third factor are relevant.

The Medical Board in Wisconsin accepted Respondent’s surrender of his license to practice medicine in that state in 1985. His license has not been reinstated, despite Respondent’s repeated petitions for reinstatement. An expert engaged by the Medical Board concluded that Respondent excessively prescribed controlled substances to various patients. Respondent has not effectively refuted that conclusion.

Respondent contends that his prescribing for these patients was appropriate, on the ground that they were in pain and that other physicians would not care for them. This contention is without merit. Respondent acknowledged that he continued to prescribe controlled substances to individuals he knew were addicts. He also continued to prescribe drugs to a woman when he knew her husband was taking the drugs. Indeed, he continued to prescribe Demerol to one patient after seeing him jump onto a motorcycle upon leaving Respondent’s office, notwithstanding his complaints of back pain during the office visit. Further, Respondent did not indicate in patient charts that he had examined those patients or what the results were of any examinations performed.

Respondent’s own testimony at the DEA hearing reveals that he has not learned from his past experience. Indeed, he still does not acknowledge that he improperly handled controlled substances in the past. Further, his testimony does not indicate that he now understands the responsibilities that are incumbent upon DEA registrants or that he is now willing to implement them.

Based upon Respondent’s improper handling of controlled substances, his lack of knowledge of proper uses of controlled substances, and his refusal to recognize his prescribing problems, the Acting Administrator concludes that the issuance of a DEA registration to Respondent would be contrary to the public interest. Therefore, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), the Acting Administrator of the Drug Enforcement Administration orders that the pending application of Stanley D. Carlson, D.D.S., executed on June 28, 1987, be, and it hereby is, denied.

This order is effective April 8, 1990.

Terrence M. Burke,
Acting Administrator.

[FR Doc. 90–8923 Filed 4–17–89; 8:45 am]
BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Labor Advisory
Committee for Trade Negotiations and Trade Policy.

Date, Time and Place: May 8, 1990, 1–5 p.m., Rm. S–5310, Seminar Room 1–B, Department of Labor Building, 200 Constitution Ave., NW., Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States. This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. section 552b(c)(3). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION CONTACT: Fernand Lavallée, Director, Trade Advisory Group, Phone: (202) 533–2752.

Signed at Washington, DC, this 11th day of April 1990.

Shellyn G. McCaffrey, Deputy Under Secretary, International Affairs.

[FR Doc. 90–9019 Filed 4–17–90; 8:45 am]
BILLING CODE 4510–23–M

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 8, 9, and 10. 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 8—Room 2736—General Accounting Office Building—441 G Street NW., Washington, DC
9:30 a.m.—Committee on Occupational Safety and Health Statistics
1. 1989 pilots—pilot V evaluation
2. 1990 pilots—current plans
3. 1990 fatality pilots—status report
4. Guidelines revision—status report
6. State Advisory Committee
7. Supplementary data system—status report
8. Work Injury Reports—status report

The meetings are open. It is suggested that persons planning to attend as observers contact Henry Lowenstem, Executive Secretary, Labor Research Advisory Council on Area Code (202) 523–1327.

State Research Advisory Committee on Occupational Safety and Health Statistics; Meeting

The State Research Advisory Committee on Occupational Safety and Health Statistics was established under the authority of Secretary of Labor Elizabeth Dole to make recommendations to the Bureau of Labor Statistics on proposals for the redesign of the Bureau’s safety and health statistics program, including the development and implementation of such proposals.

Notice is hereby given that the State Research Advisory Committee on Occupational Safety and Health Statistics will meet from 9 a.m. until 4:30 p.m. on May 17, and 9 a.m. until 12 noon, on May 18, at the Stouffer Concourse Hotel in Crystal City, 2399 Jefferson Davis Highway, Arlington, Virginia. Items to be discussed include the development and review of proposals for changes to the statistical system. Time will also be allotted to address the organizational issues of the Committee. The public is invited to attend.


Official records of the meeting will be available for public inspection at the Patrick Henry Building, Room 4014, 601 D Street, NW., Washington, DC, 20210.

Signed at Washington, DC, this 11th day of April 1990.


[FR Doc. 90–9021 Filed 4–17–90; 8:45 am]
BILLING CODE 4510–24–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 90–27]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Ad Hoc Review Team on Technology Requirements for Human Performance on Long Space Missions.

DATES: May 17, 1990, 8:30 a.m. to 4:40 p.m.

ADDRESSES: National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, Building 1, Room 600 Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Dr. James P. Jenkins, Office of Aeronautics, Exploration and Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453–2750.
SUPPLEMENTARY INFORMATION: The NAC Space Systems and Technology Advisory Committee (STAC) was established to provide overall guidance to the Office of Aeronautics, Exploration and Technology (OAE&T) on space systems and technology programs. Special ad hoc review teams are formed to address specific topics. The Ad Hoc Review Team on Technology Requirements for Human Performance is comprised of eight members. The meeting will be open to the public up to the seating capacity of the room (approximately 25 persons including the team members and other participants). It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the participants.

TYPE OF MEETING: Open.

8:30 a.m.—Introduction.
8:45 a.m.—Briefing on Exploration Missions and Scenarios.
12:30 p.m.—Final Report Preparation.
4:30 p.m.—Adjourn.


John W. Gaff,
Advisory Committee Management Officer,
National Aeronautics and Space Administration.

FOR FURTHER INFORMATION CONTACT: Linda Dodd-Major, General Counsel, National Capital Planning Commission, 1325 G Street, NW., Washington, DC 20576, telephone (202) 724-0187.

The parties agree to the following amended text for Building Height in the DEFINITIONS Section and for Section 10. Building Heights:

Building Height: Unless otherwise noted in Section 10 below, the maximum height of a building inclusive of vertical access cores, mechanical areas and structures, and other non-occupied penthouses located on building rooftops, but excluding architectural ornamentation such as balustrades, spires, etc., which may be accessible for public viewing but may not be inhabited. All building heights shall be measured at the lowest point on the adjacent ground.

10. Building Heights:

A. Waterfront Parcel

There shall be a maximum limit of 65 feet for buildings on the waterfront Parcel. Within the Waterfront Parcel, the following additional provisions shall apply to Parcels 36, 37, 39, 40, 94 and 95:

(1) Uninhabited mechanical penthouses may project above the 65-foot maximum building height, provided that they:
   (a) Architecturally complement the buildings' general massing and harmonize with the buildings' facades and roof line(s) or are incorporated within an architectural feature (including cladding) that accomplishes this objective;
   (b) Do not occupy more than 30% of the gross roof area of each building;
   (c) Are set back from at least 75% of the buildings' peripheral walls;
   (d) Are limited in the horizontal dimension along the principal axis generally parallel to the river/bay frontage of each building to no more than 50% of the horizontal dimension of the building on that axis; and
   (e) Project not more than 19.5 feet above the main roofline at which the building height is measured.

B. Beltway Parcel

The developer shall limit building heights as follows:

(1) The World Trade Center (General Orientation Plan, NCPC File No. 3206.00) shall have a maximum height of 472 feet above mean seal level (inclusive of all architectural features and ornamentation, accessories, and other appurtenances), which may consist of twenty two stories and a multi-level lobby above ground and other uses permitted within the definition of Building Height and

(2) No other building will exceed a height of sixteen (16) stories, exclusive of uninhabited mechanical penthouses, and other uses permitted within the definition of Building Height.

Linda Dodd-Major,
General Counsel.

BILLING CODE 7510-01-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY MEETINGS

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given of a public meeting to be held in the Sherwood Room on the
National Credit Union Administration

OMB Number: New Collection.
Form Number: NCUA 1001 (OT).
Type of Review: Approval of new collection.
Title: Volunteer Survey.
Description: Credit union historically have relied on volunteers to perform many functions in normal credit union operation. This proposed survey will be the first step in quantifying the value of the contribution made by volunteers to the credit union system.
Respondents: Federal credit unions.
Estimated Number of Respondents: 200.
Estimated Burden Hours per Response: 50 hours.
Frequency of Response: One time.
Estimated Total Reporting Burden: 50 hours.

Clearance Officer: Wilmer A. Theard, (202) 682-9700, National Credit Union Administration, room 7344, 1776 G Street, NW., Washington, DC 20456.

OMB Reviewer: Gary Waxman (202) 357-9898, Officer of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Becky Baker,
Secretary of the NCUA Board.

FOR FURTHER INFORMATION CONTACT:
Barbara C. McQuown, Director, National Commission for Employment Policy, 1522 K Street, NW., Suite 300, Washington, DC 20005. (202) 324-1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established pursuant to Title IV-F of the Job Training Partnership Act (Pub. L. 97-300). The Act charges the Commission with the responsibility of advising the President, and the Congress on national employment issues. Handicapped individuals wishing to attend should contact the Commission so that the credit union historically

National Science Foundation

Advisory Panel for Human Cognition and Perception; Meeting

The National Science Foundation announces the following meeting:
Name: Advisory Panel for Human Cognition and Perception.
Date and Time: May 7-9, 1990, 9 a.m.-12 noon.
Place: National Science Foundation, Washington, DC. Caucus Room.

Purpose of Meeting: To provide advice and recommendations concerning support for research in human cognition and perception.
Agenda: Open—General discussion of purpose of meeting and perceptions. Part Open—10 a.m. to 12 noon. Closed—To review and evaluate research proposals as part of the selection process for awards.
Reason for Closing: The proposals being discussed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.

FOR FURTHER INFORMATION CONTACT:
Barbara C. McQuown, Director, National Commission for Employment Policy, 1522 K Street, NW., Suite 300, Washington, DC 20005. (202) 724-1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy was established pursuant to Title IV-F of the Job Training Partnership Act (Pub. L. 97-300). The Act charges the Commission with the responsibility of advising the President, and the Congress on national employment issues. Handicapped individuals wishing to attend should contact the Commission so that appropriate accommodations can be made. Minutes of the meeting will be available for public inspection at the Commission's headquarters, 1522 K Street, NW., Suite 300, Washington, DC 20005.

Signed at Washington, DC, this 12th day of April, 20005.

Barbara C. McQuown,
Director, National Commission for Employment Policy.

[FR Doc. 90-8947 Filed 4-17-90; 8:45 am]
BILLING CODE 7555-01-M
NUCLEAR REGULATORY COMMISSION

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954 (10 U.S.C. 2071) to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 26, 1990 through April 6, 1990. The last biweekly notice was published on April 4, 1990 (55 FR 12506).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve 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 amendments 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 for each amendment request is shown below.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-223, 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 18, 1990 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.

Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved.

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. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petition must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. 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 any significant hazards consideration. The final determination will serve to decide whether 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 immediately 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 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 before action is taken. 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 Services Branch, or may be delivered to the Commission’s Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. 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-(300) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Project Director): 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 the attorney for the licensee.

Nontimely filings of petitions 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 presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of 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 which is available for public inspection at the Commission’s Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of amendment request: March 2, 1990

Description of amendment request: The proposed amendment would revise several sections of the Arkansas Nuclear One, Unit 2 Technical specifications to correct administrative, grammatical and typographical errors. Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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 licensee provided an analysis that addressed the above three standards in the amendment application. The licensee stated that the changes do not involve a significant hazards consideration for the following reasons: (1) The proposed changes would not alter the probability or consequences of an accident occurring since these changes are purely administrative in nature. (2) The proposed changes do not 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.

Carolina Power & Light Company has reviewed the proposed changes and has determined that the requested amendment does not involve a significant hazards consideration for the following reasons: 1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. 2. The Rod Sequence Control System (RSCS) and Rod Worth Minimizer (RWM) are not required for nor do they support the proper operation of any other system. Hence, deleting the RSCS and changing the low power setpoint on the RWM has no effect on the probability of failure of equipment in other systems or within the RWM. The probability of occurrence of an accident is not affected by these changes. Deleting the RSCS and changing the low power setpoint on the RWM has no effect on the probability of failure of equipment in other systems or within the RWM. The probability of occurrence of an accident is not affected by these changes. Deleting the RSCS and changing the low power setpoint on the RWM has no effect on the probability of failure of equipment in other systems or within the RWM.
Item II A-2 Control Rod Drop Accident
(BWRs). Furthermore, improvements in the RDA analysis methods (e.g., BNL-NUREG 2801, "Thermal Hydraulic Effects on Control Rod Drop Accident in a BWR," October 1980) indicated that the peak fuel enthalpies resulting from an RDA are significantly lower than previously determined by less refined methodologies.

The RSCS is a redundant backup to the RWM. When the RWM is operable, the RSCS is not needed since the RWM prevents deviation from the [Bank Position Withdrawal Sequence (BPWS)] patterns. In event the RWM is out of service, after the withdrawal of the first 12 control rods, the proposed Technical Specifications require that control rod movement and compliance with the prescribed control rod pattern (i.e., Banked Position Withdrawal Sequence per Technical Specification 4.1.4.1.2) be verified by a second licensed operator or technically qualified member of the technical staff. The verification process is controlled procedurally to ensure a high quality, independent review of control rod movement. In addition, to further minimize control rod movement with the RWM out of service, the proposed Technical Specifications will permit only one plant startup per calendar year with the RWM out of service prior to or during the withdrawal of the first 12 control rods. These measures, taken together, demonstrate consistency and applicability to those conclusions reached in the referenced SER, and substantiate the conclusion that the RSCS was not needed.

There will also be no significant increase in the peak fuel rod enthalpy during an RDA from these control rod patterns when operating above 10% of rated thermal power. The effects of an RDA are more severe at low power levels and are less severe as power increases. Although the original calculations for the RDA were performed at 10% power, the NRC required that the generic BWR Technical Specifications be written to require operation of the RWM below 20% of power to ensure conservatism. However, GE continued to perform the RDA analyses at and below 10% power because these produced more conservative analytical results. Recently, more refined calculations by Brookhaven National Laboratory (BNL) have shown that even with the maximum single control rod position error, the peak fuel rod enthalpy reached during an RDA from these control rod patterns would not exceed the NRC limit of 290 cal/gm for RDAs above 10% power, confirming the original GE analyses. Hence, lowering the RWM setpoint from 20% to 10% will not result in a significant increase in the consequences of an RDA as evaluated in the FSAR.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Operation of the RSCS and RWM cannot cause or prevent an accident. They function to minimize the consequences of an accident. The RDA is already evaluated in the FSAR, and the effect of this proposed change on the analyses is discussed in Item 1 above.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

Elimination of the RSCS will not result in a significant reduction in the margin of safety for the following reasons:

(a) An NRC study discussed in Item 1 above has determined that the probability of an RDA resulting in unacceptable consequences was so small that backfit of the RSCS was not needed.

(b) The RSCS is a redundant backup to the RWM. Eliminating the RSCS does not eliminate the control rod pattern monitoring function performed by the RWM.

Furthermore, to ensure that the RWM Specifications will allow only one startup per calendar year with the RWM out of service prior to or during the withdrawal of the first 12 control rods. If the RWM is out of service below 10% power, control rod movement and compliance with prescribed control rod patterns (i.e., Banked Position Withdrawal Sequence per Technical Specification 4.1.4.1.2) will be verified by a second licensed operator or technically qualified member of the technical staff. This situation is controlled by a procedure which specifically requires the following:

i) Plant Management approval is required in order for the operator to bypass the inoperable RWM.

ii) A second operator or technically qualified staff member, with no other duties, is required to verify the first operator's actions while the first operator is performing control rod movements. Signoff sheets are provided to the second operator for verification of each rod movement made by the first operator.

iv) Additional plant procedures provide the operator with shutdown instructions that would result in a control rod pattern allowed by the RWM if that system were not bypassed and was controlling. These instructions identify, for the operator, the RWM shutdown step to be initiated for further rod insertion below the RWM low power setpoint (i.e., 10% of rated thermal power).

There is no significant reduction in the margin of safety resulting from lowering the RWM setpoint from 20% to 10% of rated thermal power because calculations by GE and BNL have shown that even with the maximum single control rod position error, and most multiple error patterns, the peak fuel rod enthalpy during an RDA from these patterns would not exceed the NRC limit (290 cal/gm) when operating above 10% of rated thermal power.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.
or change the function or design of any installed equipment, and no modification or change to installed equipment or operating procedures is involved. Its sole purpose is to correct a previously inserted error. Therefore, the proposed amendment cannot involve a significant increase in the probability or consequences of any previously evaluated accident.

2. The proposed amendment does not change the design or function of any installed equipment and has no impact on any accident analyses. The change is being made to correct a typographical error and can clearly be classified as administrative. Therefore, the proposed amendment cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not impact any safety analyses because it is purely administrative in nature. No modification or change to installed equipment or operating procedures is involved. Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

Proposed Change 2

1. In the existing Technical Specification, to improve fire detection and response, numerous fire detection instruments were installed, removed, or revised (changed type) in the fire zones listed in Technical Specification Table 3.3.5-1, and selected fire zones encompassed by the Technical Specifications were redefined. Appropriate Technical Specification change requests were submitted, and the NRC subsequently issued Amendments 66 (Unit 1) and 02 (Unit 2) which included an updated Table 3.3.5-1. However, due to a processing error, one of the reviewed and approved changes was inadvertently not incorporated on the amended Table 3.3.5-1. The sole purpose of this change is to correct this omission.

Further, this change does not affect the function or design of any installed equipment. Therefore, the proposed change is purely administrative in nature and cannot increase the probability or consequences of any previously evaluated accident.

2. As described above, the proposed change is purely administrative. It does not change the design or function of any installed equipment and has no impact on plant operations or on any accident analyses. The change is being made solely to correct the omission of a previously reviewed and approved change. Therefore, the proposed change cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not impact any safety analyses because it is purely administrative in nature. No modification or change to installed equipment is involved. Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.91 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room


General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: December 18, 1989

Description of amendment request:

The amendment request revised Table 3.7-6, item 19, Maximum Temperature Limit for the Fuel Pool Cooling Pump and Heat Exchanger Area. The reduction of temperature in the tank area corrects an error in the Technical Specifications and makes the limit consistent with the heating, ventilation and air conditioning (HVAC) design basis. Item 17 is deleted because the limit is superfluous and is never implemented.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.91(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if 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

As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The revision lowers the maximum temperature limit for Item 19, Tank Area (E1 263), from 122° F to 104° F, thereby reflecting actual plant conditions. The change does not affect the method by which safety related equipment performs its intended function and, as such, cannot increase the probability of an accident previously evaluated. Lowering the maximum temperature limit ensures that safety related equipment in the area will not be subjected to temperatures in excess of their environmental qualification temperatures. This provides added assurance that the safety related equipment in the area will be operable if required to function. As such, the consequences of previously evaluated accidents are not affected.
Exchanger Area does not reduce the margin of safety because 1) the Fuel Pool Cooling Systems are not covered by a separate technical specification and, as such, Item 17 of Technical Specification 3/4.7.12 is administratively never implemented, and 2) the limit represented in the Specification is the same as the maximum normal and post-accident temperature in that area. The 104° F maximum is ensured by a safety-related ventilation system with redundant trains. The components of the fuel pool cooling system are environmentally qualified to at least 120° F. As such, the deletion of the Technical Specification limit for this area will not affect the long term operability of the fuel pool cooling system. Therefore, the margin of safety is not affected by the proposed amendment.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room
location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, et al., Docket No. 50-900, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: February 26, 1990

Description of amendment request: This amendment request would delete the 3.25 times the specified surveillance interval restriction on any three consecutive surveillance intervals from Technical Specification Surveillance 4.0.2. The intent of the 3.25 limit is to preclude routine use of the provision for extending a surveillance interval by 25 percent. Experience has shown this limit to be impractical for surveillances that are performed on a refueling outage basis. It is consistent with the guidance of NRC Generic Letter 89-14, “Line-Item Improvements in Technical Specifications - Removal of the 3.25 Limit on Extending Surveillance Intervals,” dated August 21, 1989.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if 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.

As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because there is no physical change or alteration to the facility that could cause the probability of an accident to increase. In addition, removal of the 3.25 combined interval enhances safety by reducing the potential of a forced shutdown or performing surveillance during unsuitable plant conditions.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the design of the facility and system operating parameters are not changing. Surveillance intervals are not changing and will continue to be limited to the 25% extension.

3. The proposed amendment does not involve a significant reduction in the margin of safety because surveillance frequencies will retain the 25% extension limit which is an acceptable extension tolerance, as documented in Generic Letter 89-14, sufficient to ensure the reliability of equipment. Maintaining equipment in a reliable condition does not introduce a reduction in any margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room
location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Carolina Power & Light Company, et al., Docket No. 50-900, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: February 26, 1990

Description of amendment request: This amendment request would delete the 3.25 times the specified surveillance interval restriction on any three consecutive surveillance intervals from Technical Specification Surveillance 4.0.2. The intent of the 3.25 limit is to preclude routine use of the provision for extending a surveillance interval by 25 percent. Experience has shown this limit to be impractical for surveillances that are performed on a refueling outage basis. It is consistent with the guidance of NRC Generic Letter 89-14, “Line-Item Improvements in Technical Specifications - Removal of the 3.25 Limit on Extending Surveillance Intervals,” dated August 21, 1989.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazards consideration exists. A proposed amendment to an Operating License for a facility involves no significant hazards consideration if 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.

As required by 10 CFR 50.91(a), the licensee has provided the following no significant hazards consideration determination:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because there is no physical change or alteration to the facility that could cause the probability of an accident to increase. In addition, removal of the 3.25 combined interval enhances safety by reducing the potential of a forced shutdown or performing surveillance during unsuitable plant conditions.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the design of the facility and system operating parameters are not changing. Surveillance intervals are not changing and will continue to be limited to the 25% extension.

3. The proposed amendment does not involve a significant reduction in the margin of safety because surveillance frequencies will retain the 25% extension limit which is an acceptable extension tolerance, as documented in Generic Letter 89-14, sufficient to ensure the reliability of equipment. Maintaining equipment in a reliable condition does not introduce a reduction in any margin of safety.

The licensee has concluded that the proposed amendment meets the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards consideration.

The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the Commission proposes to determine that the requested amendment does not involve a significant hazards consideration.

Local Public Document Room
location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Elinor G. Adensam

Consolidated Edison Company of New York, Docket Nos. 50-881 and 50-247,
Indian Point Nuclear Generating Units Nos. 1 and 2, Westchester County, New York

Date of amendments request: March 18, 1990, superseded March 27, 1990

Description of amendments request: The proposed amendments would revise the Appendix A Technical Specifications for Unit 2 and the Appendix B Technical Specifications for Units 1 and 2. The proposed amendments would involve editorial changes, correct typographical errors, adjust line spacing (repagination), and adjust text formats. In addition, the proposed amendments would delete pertinent portions of the Technical Specifications that related to one-time only date extensions which have since expired and to plant equipment which had been removed from service pursuant to previously approved amendments. The proposed changes are purely administrative and do not involve substantive changes to the Technical Specifications. The proposed amendments would supersede the licensee's proposed amendment for Unit 2 which was submitted on March 18, 1988 and which was noticed on May 18, 1988 (53 FR 17786).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a 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 licensee has evaluated the proposed amendment against the standards provided above and has supplied the following information:

Consistent with the Commission's criteria contained in 10 CFR 50.92, we have determined that the proposed changes do not involve a significant hazards consideration because the operation of Indian Point Units Nos. 1 and 2 in accordance with this change:

(1) Would not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed changes are purely administrative in nature and only change typographical errors. Make editorial changes for consistency, repaginate the document and delete pertinent portions of the technical specifications that are no longer
order to account for the fuel pellet manufacturing tolerances for the new fuel to be loaded into the reactor for Cycle 8 operation, the proposed amendment would raise the amount by which the measured hot channel factor is increased from 1.4% to 2.0%.

**Basis for proposed no significant hazards consideration determination:** The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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 licensee evaluated the amendment request in light of the above three criteria. In regard to the first criterion, the licensee determined that the proposed change would not involve a significant increase in the probability or consequences of any accidents previously evaluated. Babcock & Wilcox performed an evaluation that verifies that since nuclear heat flux hot channel factor is not postulated as being the initiating event for any accident scenario, the proposed change does not affect the probability of any accident previously evaluated. Furthermore, since the hot channel factor limit is not changed, the post-accident peak clad temperature remains below the 10 CFR 50.46 limit and the proposed change, therefore, will not increase the consequences of any accident previously evaluated.

In regard to the second criterion, the licensee determined that the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated. This is so since nuclear heat flux hot channel factor is not assumed to be the initiating event for any accident scenario, and since the hot channel factor limit will not be exceeded.

In regard to the third criterion, the licensee determined that the proposed change will not involve a significant reduction in a margin of safety since the proposed increase in manufacturing tolerances is conservative in that it reduces the allowable measured hot channel factor. Furthermore, since the nuclear heat flux hot channel factor will not be exceeded, the 10 CFR 50.46 limit for peak clad temperature will not be exceeded.

The staff has performed a preliminary review of the licensee's proposed change and agrees that the criteria of 10 CFR 50.92 are met. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards considerations.

**Local Public Document Room**

**location:** Crystal River Public Library, 508 W. First Avenue, Crystal River, Florida 34429

**Attorney for licensee:** A. H. Stephens, General Counsel, Florida Power Corporation, MAC - A5D, P.O. Box 14042, St. Petersburg, Florida 33733

**NRC Project Director:** Herbert N. Berkow

**Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50-321 and 50-366, Edwin L. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia**

**Date of amendment request:** January 26, 1990

**Description of amendment request:** The amendments would modify the Technical Specifications (TSs) to require an average (bulk) temperature to be used to show compliance with the TS limits on suppression pool temperature. The Bases sections of the TSs also would be changed to describe the method(s) used to determine this average suppression pool temperature.

**Basis for proposed no significant hazards consideration determination:** The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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 Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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.
require a more stringent method of monitoring temperature, consistent with current Plant Hatch procedural requirements. The proposed change does not create the possibility of a new or different type of accident from any previously analyzed, because the new TS requirement simply increases the amount of instrumentation required to monitor average (bulk) suppression pool temperature. No new modes of operation are introduced by this change, and the pool temperature sensors provide monitoring and alarm functions only. Also, no physical changes are being made to the pool temperature monitoring system.

The proposed change does not involve a significant decrease in the margin of safety. Monitoring of the suppression pool temperature will be at least as accurate as before and reflects a better method of determining conformance to TS temperature limits. This method (using all of the available pool temperature sensors) is currently being utilized in plant procedures.

The Commission’s staff has considered the proposed changes and agrees with the licensee’s evaluations with respect to the three standards.

On this basis, the Commission has determined that the requested amendments meet the three standards and, therefore, has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David B. Matthews.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: March 1, 1990

Description of amendment request:
The proposed amendments would revise Administrative Section 6.7.4.4 of the Technical Specifications (TSs) by removal of the reference to the Boron Recycle System from the description of systems included in a program to reduce leakage from fluid systems located outside containment that potentially contain radioactive fluid. The NRC staff specifically noted in Supplement 3 of the Vogtle Electric Generating Plant (VEGP) Safety Evaluation Report (SER) that the Boron Recycle System could be excluded from the leakage control program. Hence, the proposed amendments are administrative in nature and achieve consistency between the TSs and the VEGP SER.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if 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 licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92 and determined the following:

The proposed change to this Technical Specification will not result in a significant increase in the probability of an accident previously evaluated because the relationship of the Boron Recycle System to the leakage reduction program has no effect on the probability or cause of accidents and transients. In addition, the proposed change to this Technical Specification is not related to reducing the probability of accidents or transients. The consequences of an accident previously evaluated will not be affected by whether or not the Boron Recycle System is in the leakage reduction program because the Boron Recycle System is isolated from sources of highly radioactive material and would not contribute to any doses as a result of such transients or accidents.

This change to the Technical Specifications is administrative in nature and does not represent any physical change to the plant, the plant procedures or plant operating requirements. Therefore, it will not introduce the possibility of a new or different kind of accident.

The removal of the Boron Recycle System from the description of the leakage reduction program will not reduce the margin of safety contained in any safety analysis because leakage from the Boron Recycle System is not a factor in the safety analyses and the system is isolated from systems that may potentially contain highly contaminated fluids.

The Commission’s staff has reviewed the licensee’s evaluation of no significant hazards consideration and concurs with the licensee’s conclusions. Accordingly, the Commission proposes to determine that the proposed amendments do not involve a significant hazards consideration.
The proposed amendments do not involve a significant reduction in a margin of safety. The proposed amendments do not involve a significant increase in the probability of or consequences of an accident previously evaluated because the cycle-specific core operating limits, although not in the TSs, will be followed in the operation of the plant. The proposed amendments still require the same actions to be taken if the core operating limits are exceeded as is required by current TSs.

Each accident analysis addressed in the plant's Final Safety Analysis Report will be examined with respect to changes in cycle-dependent parameters, which are obtained from application of the NRC-approved reload design methodologies, to ensure that the transient evaluation of new reloads are bounded by previously accepted analyses. This examination, which will be performed in accordance with the requirements of 10 CFR 50.59, ensures that future reloads will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated because removal of cycle-specific parameter limits has no impact on the design of the plant and no new modes of operation are introduced. The cycle-specific variables will be calculated using the NRC-approved methodology and will be submitted to the NRC staff to allow them to continue to trend the values of these limits. The TSs will continue to require operation within the required core operating limits, and appropriate actions will be taken if these limits are exceeded.

The proposed amendments do not involve a significant reduction in a margin of safety because the changes do not alter the methods used to establish the core operating limits as obtained from the NRC-approved reload methodologies, and appropriate actions will be taken if these limits are exceeded.

The changes to the TS Table of Contents are administrative in nature because they result from the changes to the TSs discussed above. These administrative changes meet the Commission's three standards in 10 CFR 50.92(c).

Accordingly, the Commission has concluded that the requested changes meet the three standards and, therefore, has made a proposed determination that the requested license amendments do not involve a significant hazards consideration.

**Local Public Document Room**

**Location:** Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

**Attorney for licensee:** Mr. Arthur H. Dombey, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, NE, Atlanta, Georgia 30303.

**NRC Project Director:** David B. Matthews

**Indiana Michigan Power Company, Docket No. 50-315, Donald C. Cook Nuclear Plant, Unit No. 1, Berrien County, Michigan**

**Date of amendments request:** February 9, 1990

**Description of amendments request:**

The proposed amendment would change Technical Specification (TS) 3/4.7.5.1, “Snubbers,” to provide an extension of the required interval for visual inspection of inaccessible snubbers until the Unit 1 refueling outage, scheduled to begin on approximately October 12, 1990. The present interval requires that inspection commence by September 11, 1990.

The proposed amendment would change Technical Specification (TS) 3/4.7.5.1, “Snubbers,” to provide an extension of the required interval for visual inspection of inaccessible snubbers until the Unit 1 refueling outage, scheduled to begin on approximately October 12, 1990. The present interval requires that inspection commence by September 11, 1990.

**Basis for proposed amendment:**

- **Criterion 1**
  - The plant is located in a region of very low seismic activity so the probability of an earthquake is very low. The history of snubber inspections shows a low failure rate giving a good degree of confidence that the snubbers will function if required. For these reasons, the staff believes the change will not involve a significant reduction in a margin of safety.

**Description of amendment request:**

The proposed amendment would change Technical Specification (TS) 3/4.7.5.1, “Snubbers,” to provide an extension of the required interval for visual inspection of inaccessible snubbers until the Unit 1 refueling outage, scheduled to begin on approximately October 12, 1990. The present interval requires that inspection commence by September 11, 1990.

The proposed amendment would change Technical Specification (TS) 3/4.7.5.1, “Snubbers,” to provide an extension of the required interval for visual inspection of inaccessible snubbers until the Unit 1 refueling outage, scheduled to begin on approximately October 12, 1990. The present interval requires that inspection commence by September 11, 1990.

The proposed amendment would change Technical Specification (TS) 3/4.7.5.1, “Snubbers,” to provide an extension of the required interval for visual inspection of inaccessible snubbers until the Unit 1 refueling outage, scheduled to begin on approximately October 12, 1990. The present interval requires that inspection commence by September 11, 1990.
The amendment would place limits on the amount of airflow into the control room from outside sources, including in-leakage and air used by the ventilation system for pressurization. (8) TS descriptions of the control room ventilation system would be clarified to reflect actual system operation. (7) TS 4.7.5.1.d would be changed to require that the pressurization fan be run for 60 minutes every 31 days. The TS presently requires that the fan be run for 15 minutes every 31 days. (6) The Bases section of the TS concerning the control room ventilation system would be changed to discuss reasons for the above changes. (9) A number of editorial changes would also be made to correct typographical errors.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not:

(i) Involve a 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 a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

Change 1

Criterion 1

The change to the 1980 version of the ANSI N510 testing standard will update our T/Ss to currently acceptable testing standards. Since the 1980 version corresponds more closely to the Cook Nuclear Plant ventilation system design and since the changes to the 30° C lab test temperature and the 97% filter efficiency are clearly in the conservative direction, we believe that the changes do not involve a significant increase in the probability or consequences of an accident.

Criterion 2

The change only involves our testing methods to verify ventilation system operability. As this change does not involve modifications to the plant or changes in operation of the system as involved, we believe it will not create the possibility of a new or different kind of accident from any previously analyzed accident.

Criterion 3

We are proposing to test our ventilation systems in a manner which corresponds more closely to the system design. Since the 1980 version of the code is the current industry standard, and since the changes to the 30° C lab test temperature and the 97% filter efficiency are clearly in the conservative direction, we believe that no reduction in a margin of safety will occur.
represent additional restrictions to the T/Ss that would enhance safety. We therefore believe that the change will not involve a significant increase in the probability or consequences of a previously evaluated accident or a significant reduction in the margin of safety.

**Change 6**

**Criterion 1**

These changes are administrative in nature, intended primarily to correct errors in the T/S description of control room ventilation system operation. Since no changes in plant operations or physical changes to the plant will occur due to these changes, they do not involve a significant increase in the probability or consequences of a previously evaluated accident.

**Criterion 2**

Since no changes to the physical plant or plant operations will occur because of these changes, they should not create the possibility of a new or different kind of accident from any previously evaluated.

**Criterion 3**

These changes are administrative in nature, intended primarily to correct errors in the present T/Ss with regard to system operation descriptions. Thus, they should involve no reduction in margins of safety.

**Change 7**

**Criterion 1**

We are proposing to increase the surveillance requirements on the control room pressurization fans by increasing their required run-times. This should provide additional protection against an early trip. We therefore expect the change to enhance, rather than decrease, plant safety.

**Criterion 3**

The change does not involve modifications to the plant or changes in operation configuration of the systems involved. Therefore, we believe the change will not create the possibility of a new or different kind of accident from any previously analyzed or evaluated.

**Change 8**

These changes affect only the Bases of the Technical Specifications and are not subject to Significant Hazards Consideration as defined by 10 CFR 50.92.

**Change 9**

In addition to the changes described previously, several editorial changes were made. These were changes to correct typographical errors in our present T/Ss, or changes that were necessary as a result of those changes described previously. Because these changes are purely editorial, they do not reduce a margin of safety, do not increase the probability or consequences of a previously analyzed accident, and do not introduce the possibility of a new accident. Therefore, these changes do not involve a significant hazards consideration as defined by 10 CFR 50.92.

The staff has reviewed the licensee's no significant hazards analysis and concurs with the licensee's conclusions. Therefore, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

**Indianapolis Change**

**Premises**

The change involves no physical changes to the plant nor any changes in plant operations. Therefore, the change should not create the possibility of a new or different kind of accident from any previously analyzed or evaluated.

**Date of amendments request:** September 15, 1989

**Description of amendments request:**

The proposed amendment would change Technical Specifications (TS) 3/4.7.6, "ESF Ventilation Systems," and 3/4.9.12, "Storage Pool Ventilation System," to require that laboratory testing of charcoal samples from the charcoal absorbers be conducted at 30 degrees Celsius. These laboratory tests are currently conducted at 130 degrees Celsius.

**Basis for proposed no significant hazards consideration determination:**

10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) Involve a 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 a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

**Criterion 1**

The change from 130° C to 30° C for the charcoal laboratory test is in the conservative direction, since the change will make it more difficult for the charcoal to meet the T/S-required efficiency. Thus, the change should increase the margin of safety, and should not involve an increase in the probability or consequences of a previously evaluated accident. The delineation of ASTM D 3803-1979 as the test standard for the charcoal is administrative in nature, and will not impact plant safety.

**Measurements request:**

The changes do not involve physical changes to the plant nor any changes in plant operations. Therefore, the change should not create the possibility of a new or different kind of accident from any previously analyzed or evaluated.

**Local Public Document Room Location:** Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

**Attorney for licensee:** Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

**NRC Project Director:** John O. Thoma, Acting.

**Date of amendments request:** October 17, 1989

**Description of amendments request:**

The proposed amendment would change Technical Specification (TS) 3/4.4.6.2, "Operational Leakage," and its associated Bases to specify Reactor Coolant System (RCS) controlled leakage through the reactor coolant pump (RCP) seal injection line in terms of flow resistance in order to more accurately reflect assumptions made in...
the plant accident analysis. RCS controlled leakage is currently limited to 52 gpm. The new limit is more restrictive as it effectively permits only 40 gpm controlled leakage. The amendment would also provide an exemption from TS 4.0.4 to permit entry into Modes 3 and 4 before completion of the controlled leakage surveillance test. Additionally, Action (c) of TS 3.4.6.2 would be changed to remove reportability requirements concerning pressure boundary leakage.

**Basis for proposed no significant hazards consideration determination:**

10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not:

(i) Involve a 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 an accident previously evaluated; or

(iii) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

**Criterion 1**

We are proposing to modify the T/S surveillance requirement for controlled leakage such that it accurately reflects the assumptions of the LOCA analysis. The present T/S wording is vague, and does not by itself ensure consistency with the analysis. The revised surveillance requirement places additional restrictions on the plant, and would be expected to increase, rather than decrease, safety. The proposed addition of a T/S 4.0.4 exemption for Modes 3 and 4 and the clarifications that the specification is applicable with the RCS fully pressurized are a reduction to the current requirements, but are consistent with performing the surveillance with the RCS fully pressurized, and are similar to the Standard T/S requirements. Since there are no substantive differences between the Cook Nuclear Plant controlled leakage configuration and that reflected by the Standard T/S, the change would not be expected to decrease safety. For these reasons, we believe the change does not involve a significant increase in the probability or consequences of a previously analyzed accident, nor should it involve a significant reduction in a margin of safety.

**Criterion 2**

The only change to plant operations is the method of measuring controlled leakage. The proposed method requires no changes in plant equipment lineups. Data is recorded from existing instrumentation, and then is mathematically manipulated to ensure the resistance is in compliance with the accident analysis assumptions. Since the change involves new modes of plant operation, any physical changes to the plant, the change should not create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated.

**Criterion 3**

We are proposing to modify the T/S surveillance requirement for controlled leakage such that it accurately reflects the assumptions of the LOCA analysis. The present T/S wording is vague, and does not by itself ensure consistency with the analysis. The revised surveillance requirement places additional restrictions on the plant, and would be expected to increase, rather than decrease, safety. The proposed addition of a T/S 4.0.4 exemption for Modes 3 and 4 and the clarifications that the specification is applicable with the RCS fully pressurized are a reduction to the current requirements, but are consistent with performing the surveillance with the RCS fully pressurized, and are similar to the Standard T/S requirements. Since there are no substantive differences between the Cook Nuclear Plant controlled leakage configuration and that reflected by the Standard T/S, the change would not be expected to decrease safety. For these reasons, we believe the change does not involve a significant increase in the probability or consequences of a previously analyzed accident, nor should it involve a significant reduction in a margin of safety.

**Basis for proposed no significant hazards consideration determination:**

10 CFR 50.92 states that a proposed amendment does not:

(i) Involve a 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 an accident previously evaluated; or

(iii) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

**Criterion 1**

The basis for determining fuel oil storage requirements is defined in ANSI N195-1976 and Regulatory Guide 1.137. Since our proposed T/S value is conservative with respect to our calculations performed in accordance with these documents and is more restrictive than our current T/S value, this proposed change will not significantly increase the probability or consequences of a previously analyzed accident nor will it involve a reduction in a margin of safety.

**Criterion 2**

This proposed change will require the plant to be operated under more restrictive conditions than currently required. Therefore, the change should not create the possibility of a new or different kind of accident from any accident previously analyzed or evaluated.

**Criterion 3**

The basis for determining fuel oil storage requirements is defined in ANSI N195-1976 and Regulatory Guide 1.137. Since our proposed T/S value is conservative with respect to our calculations performed in accordance with these documents and is more restrictive than our current T/S value, this proposed change will not significantly increase the probability or consequences of a previously analyzed accident, nor will it involve a reduction in a margin of safety.

The staff has reviewed the licensee’s no significant hazards analysis and concurs with the licensee’s conclusions. Therefore, the staff proposes to determine that the requested change does not involve a significant hazards consideration.
Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRIC Project Director: John O. Thoma, Acting.

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: February 6, 1990

Description of amendments request: The proposed amendment would make a number of changes to the plant's Technical Specifications (TS) regarding upcoming Unit 2 Operating Cycle 8. The licensee has classified these changes into six groups: (1) Changes to support Unit 2 operation during Cycles 8 and 9 with a mixture of Vangalje (V5) and Advance Nuclear Fuel (ANF) fuel; (2) Removal of TS requirements which were part of the Unit 2 Cycle 6 TS amendment; (3) A change to the Unit 2 pressurizer water volume limit to increase consistency with Unit 1 TS; (4) Administrative changes to enhance readability of the TS; (5) Modification of surveillance requirements for axial flux difference (AFD); and (6) Changes to Unit 1 TS which are based on identical or similar justification as presented for the corresponding Unit 2 TS changes.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not: (i) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (ii) Create the possibility of a new and different kind of accident from any accident previously evaluated; or (iii) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

Change Group 1

Criterion 1

The proposed T/S changes to support Cycle 8 operations are accompanied by extensive analyses and evaluations which indicate that they will not result in an unsafe condition at the plant. The analyses and evaluations support our conclusion that the proposed T/S changes will not involve a significant increase in the probability or consequences of any accident previously analyzed.

Criterion 2

The Cycle 8 analyses and evaluations comply with the licensing basis of the plant. Thus, the proposed T/S changes should not create the possibility of a new or different kind of accident from any previously analyzed or evaluated.

Criterion 3

The proposed T/S changes to support Cycle 8 operations are accompanied by extensive analyses and evaluations which indicate that they will not result in an unsafe condition at the plant. The analyses and evaluations support our conclusion that the proposed T/S changes will not involve a significant reduction in any margin of safety.

Change Group 2

Criterion 1

The proposed T/S changes do not involve a physical change to the plant. The procedures and administrative controls for the plant will either remain in place as described above, or in some cases be replaced by controls which are of comparable effectiveness. Therefore, we conclude that the proposed T/S changes will not result in a significant increase in the probability or consequences of any accident previously analyzed.

Criterion 2

The proposed T/S changes do not involve a physical change to the plant. The procedures and administrative controls for the plant will either remain in place as described above, or in some cases be replaced by controls which are of comparable effectiveness. Therefore, we conclude that the proposed changes will not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3

The proposed T/S changes do not involve a physical change to the plant. The procedures and administrative controls for the plant will either remain in place as described above, or in some cases be replaced by controls which are of comparable effectiveness. Therefore, we conclude that the proposed T/S changes will not involve a significant reduction in any margin of safety.

Change Group 3

Criterion 1

The proposed T/S change is accompanied by an evaluation which indicates that it will not result in an unsafe condition at the plant. The evaluation supports our conclusion that the change, which has already been approved for Unit 1, will not involve a significant increase in the probability or consequences of any accident previously analyzed.

Criterion 2

Adding the caveat to the additional surveillance requirement will not result in a new or different kind of accident from any previously evaluated.

Criterion 3

The requirements to monitor the AFD for the first 24 hours after restoring the AFD to operable status will be eliminated only when the axial power distribution has been within the target band for 24 hours prior to restoring the alarm to operable status. This will not impact the safety of the plant because the alarm can accurately monitor the cumulative time out of the target band in this case. If the AFD has been outside of the target band at any time in the 24 hours prior to restoring the alarm to operable status, then the surveillance of monitoring the AFD for the first 24 hours is still required.

Change Group 4

Criterion 1

This proposed T/S change will not result in an increase in the probability or consequences of an accident previously analyzed. The requirement to monitor the AFD for the first 24 hours after restoring the AFD to operable status will be eliminated only when the axial power distribution has been within the target band for 24 hours prior to restoring the alarm to operable status. This will not impact the safety of the plant because the alarm can accurately monitor the cumulative time out of the target band in this case. If the AFD has been outside of the target band at any time in the 24 hours prior to restoring the alarm to operable status, then the surveillance of monitoring the AFD for the first 24 hours is still required.

Change Group 5

Criterion 1

This proposed T/S change will not result in an increase in the probability or consequences of an accident previously analyzed. The requirement to monitor the AFD for the first 24 hours after restoring the AFD to operable status will be eliminated only when the axial power distribution has been within the target band for 24 hours prior to restoring the alarm to operable status. This will not impact the safety of the plant because the alarm can accurately monitor the cumulative time out of the target band in this case. If the AFD has been outside of the target band at any time in the 24 hours prior to restoring the alarm to operable status, then the surveillance of monitoring the AFD for the first 24 hours is still required.
alarm to operable status. This will not impact the safety of the plant because the alarm can accurately monitor the cumulative time out of the target band in this case. If the AFD has been outside of the target band at any time in the 24 hours prior to restoring the alarm to operable status, then the surveillance of monitoring the AFD for the first 24 hours is still required. We conclude that this proposed T/S change will not involve a significant reduction in any margin of safety.

Change Group 6
A 10 CFR 50.92 evaluation is not included for Change Group 6 because the evaluations performed for the corresponding Unit 2 changes in T/S Change Groups 1, 2, and 5 apply to both Unit 1 and Unit 2.

The staff has reviewed the licensee's no significant hazards analysis and concurs with the licensee's conclusions. Therefore, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room

Date of amendment request: March 19, 1990

Description of amendment request:
The proposed amendment would change the Technical Specifications Sections 4.05 and 4.07 by specifying the surveillance Inservice Testing (IST) for the power operated relief valves (PORV's), main steam safety valves and the pressurizer safety valves respectively in accordance with Section 4.05 which specifies the IST in accordance with ASME Section XI Code Edition and applicable addenda as required by 10 CFR 50.55(g). The proposed change would add a new requirement to maintain an average water temperature of 75 degrees F for the service water system as stated in the Updated Final Safety Analysis Report. There would be no impact on the basis of the Technical Specifications that relates to the water temperature.

Basis for proposed no significant hazards consideration determination:
The licensee has reviewed the proposed changes in accordance with 10 CFR 50.92 and has concluded and the staff agrees that they do not involve a significant hazards consideration.

Local Public Document Room

Date of amendment request: March 21, 1990

Description of amendment request:
The proposed change to the Technical Specifications would add a new requirement to maintain an average water temperature of less than 75 degrees F at the influent boundary except when the reactor is in the cold shutdown or refueling condition. The design basis for the service water system as stated in the Updated Final Safety Analysis Report is a maximum water temperature of 75 degrees F.

Basis for proposed no significant hazards consideration determination:
The licensee has reviewed the proposed changes in accordance with 10 CFR 50.92 and has concluded and the staff agrees that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously analyzed. These changes are editorial in nature in that the proposed amendment affects a change in the manner in which in-service test requirements are specified for the safety valves. Instead of explicitly specifying the ASME Section XI Edition, Addendum, and subsection, in each individual specification, the proposed change would reference Section 4.05 which provides general in-service test requirements. As such, the changes would not affect the plant's current practices in compliance with the surveillance requirements. The proposed revision of Technical Specifications would not adversely affect operability or reliability of the valves mentioned above at Millstone Unit No. 2. No design basis analyses would be affected by these changes and there would be no impact on the consequences of the design basis accidents. There would be no impact on the probability of failure of any safety systems due to the proposed changes. No failure modes associated with the proposed changes are identified. There would be no safety system or impact on the performance of any safety system affected by these proposed changes.

2. Create the possibility of a new or different kind of accident from any previously analyzed. Since there would be no changes to the way the plant would be operated, the potential for an unanalyzed accident would not be created. No new failure modes would be introduced.

3. Involve a significant reduction in a margin of safety. Since the proposed changes would not affect the consequences of any accident previously analyzed, would not impact the protective boundaries, would not affect the safety limits of the protective boundaries and would have no impact on the basis of the Technical Specifications, there would be no reduction in a margin of safety.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room

Date of amendment request: March 21, 1990

Description of amendment request:
The proposed change to the Technical Specifications would add a new requirement to maintain an average water temperature of less than 75 degrees F at the influent boundary except when the reactor is in the cold shutdown or refueling condition. The design basis for the service water system as stated in the Updated Final Safety Analysis Report is a maximum water temperature of 75 degrees F.

Basis for proposed no significant hazards consideration determination:
The licensee has reviewed the proposed changes in accordance with 10 CFR 50.92 and has concluded and the staff agrees that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously analyzed. These changes are editorial in nature in that the proposed amendment affects a change in the manner in which in-service test requirements are specified for the safety valves. Instead of explicitly specifying the ASME Section XI Edition, Addendum, and subsection, in each individual specification, the proposed change would reference Section 4.05 which provides general in-service test requirements. As such, the changes would not affect the plant's current practices in compliance with the surveillance requirements. The proposed revision of Technical Specifications would not adversely affect operability or reliability of the valves mentioned above at Millstone Unit No. 2. No design basis analyses would be affected by these changes and there would be no impact on the consequences of the design basis accidents. There would be no impact on the probability of failure of any safety systems due to the proposed changes. No failure modes associated with the proposed changes are identified. There would be no safety system or impact on the performance of any safety system affected by these proposed changes.

2. Create the possibility of a new or different kind of accident from any previously analyzed. Since there would be no changes to the way the plant would be operated, the potential for an unanalyzed accident would not be created. No new failure modes would be introduced.

3. Involve a significant reduction in a margin of safety. Since the proposed changes would not affect the consequences of any accident previously analyzed, would not impact the protective boundaries, would not affect the safety limits of the protective boundaries and would have no impact on the basis of the Technical Specifications, there would be no reduction in a margin of safety.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room

Date of amendment request: March 21, 1990

Description of amendment request:
The proposed change to the Technical Specifications would add a new requirement to maintain an average water temperature of less than 75 degrees F at the influent boundary except when the reactor is in the cold shutdown or refueling condition. The design basis for the service water system as stated in the Updated Final Safety Analysis Report is a maximum water temperature of 75 degrees F.

Basis for proposed no significant hazards consideration determination:
The licensee has reviewed the proposed changes in accordance with 10 CFR 50.92 and has concluded and the staff agrees that they do not involve a significant hazards consideration in that these changes would not:

1. Involve a significant increase in the probability of occurrence or consequences of an accident previously analyzed. These changes are editorial in nature in that the proposed amendment affects a change in the manner in which in-service test requirements are specified for the safety valves. Instead of explicitly specifying the ASME Section XI Edition, Addendum, and subsection, in each individual specification, the proposed change would reference Section 4.05 which provides general in-service test requirements. As such, the changes would not affect the plant's current practices in compliance with the surveillance requirements. The proposed revision of Technical Specifications would not adversely affect operability or reliability of the valves mentioned above at Millstone Unit No. 2. No design basis analyses would be affected by these changes and there would be no impact on the consequences of the design basis accidents. There would be no impact on the probability of failure of any safety systems due to the proposed changes. No failure modes associated with the proposed changes are identified. There would be no safety system or impact on the performance of any safety system affected by these proposed changes.

2. Create the possibility of a new or different kind of accident from any previously analyzed. Since there would be no changes to the way the plant would be operated, the potential for an unanalyzed accident would not be created. No new failure modes would be introduced.

3. Involve a significant reduction in a margin of safety. Since the proposed changes would not affect the consequences of any accident previously analyzed, would not impact the protective boundaries, would not affect the safety limits of the protective boundaries and would have no impact on the basis of the Technical Specifications, there would be no reduction in a margin of safety.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.
Description of amendment request:
The proposed amendment would revise the following Technical Specifications (TS) to replace the values of cycle-specific parameter limits with a reference to the Core Operating Limits Report (COLR), which contains the values of those limits:

3/4.1.3.5 Moderator Temperature Coefficient
3/4.1.3.6 Control Rod Insertion Limits (Four Loop and Three Loop)
3/4.2.1.1 Axial Flux Difference - Four Loop
3/4.2.1.2 Axial Flux Difference - Three Loop
3/4.2.2.1 Heat Flux Hot Channel Factor - Four Loop
3/4.2.2.2 Heat Flux Hot Channel Factor - Three Loop
3/4.2.3.1 RCS Flow Rate and Nuclear Enthalpy Rise Hot Channel Factor - Four Loop
3/4.2.3.2 RCS Flow Rate and Nuclear Enthalpy Rise Hot Channel Factor - Three Loop

In addition, the COLR has been included in the Definitions Section of the TS (proposed TS 1.42) to note that it is the unit-specific document that provides these limits for the current operating reload cycle. Furthermore, the definition notes that the values of these cycle-specific parameter limits are to be determined in accordance with proposed TS 6.9.1.6. This TS requires that the Core Operating Limits be determined for each reload cycle in accordance with the referenced NRC-approved methodology for these limits and consistent with the applicable limits of the safety analysis. Finally, this report and any mid-cycle revisions shall be provided to the NRC upon issuance. Generic Letter 88-16, dated October 4, 1988, provides guidance to licensees on requests for removal of the values of cycle-specific parameter limits from TS. The licensee’s proposed amendment is in response to this Generic Letter.

Basis for proposed no significant hazards consideration determination:
The staff has evaluated this proposed amendment and determined that it involves no significant hazards considerations. According to 10 CFR 50.92(c), a proposed amendment to an operating license involves no significant hazards considerations if 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 proposed revision to the License Condition is in accordance with the guidance provided in Generic Letter 88-16 for licensees requesting removal of the values of cycle-specific parameter limits from TS. The establishment of these limits in accordance with an NRC-approved methodology and the incorporation of these limits into the COLR will ensure that proper steps have been taken to establish the values of these limits. Furthermore, the submittal of the COLR will allow the staff to continue to trend the values of these limits without the need for prior staff approval of these limits and without introduction of an unreviewed safety question. The revised TS with the removal of the values of cycle-specific parameter limits and the addition of the referenced report for these limits does not create the possibility of a new or different kind of accident for those previously evaluated. They also do not involve a significant reduction in the margin of safety since the change does not alter the methods used to establish these limits. Consequently, the proposed change which involves the removal of the values of cycle-specific parameter limits does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Because the values of cycle-specific parameter limits will continue to be determined in accordance with an NRC-approved methodology and consistent with the applicable limits of the safety analysis, these changes are administrative in nature and do not impact the operation of the facility in a manner that involves significant hazards considerations.

The proposed amendment does not alter the requirement that the plant be operated within the limits for cycle-specific parameters nor the required remedial actions that must be taken when these limits are not met. While it is recognized that such requirements are essential to plant safety, the values of limits can be determined in accordance with NRC-approved methods without affecting nuclear safety. With the removal of the values of these limits from the TS, they have been incorporated into COLR that is submitted to the Commission. Hence, appropriate measures exist to control the values of the facility limits. These changes are administrative in nature and do not impact the operation of the facility in a manner that involves significant hazards considerations.

Based on the preceding assessment, the staff proposes to determine that this proposed amendment involves no significant hazards considerations.

Local Public Document Room
Location: Learning Resource Center
Thomas Valley State Technical College

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, City Place, Hartford, Connecticut 06103-3499.

Date of amendment request: February 21, 1990

Date of amendment request: March 15, 1990

Description of amendment request:
The proposed amendment would change the Millstone Unit 3 Technical Specifications (TS) as follows: (1) an editorial change to TS 4.6.2.1 and 4.6.2.2 would be made to improve readability and (2) an editorial change to TS 3/4.9.1.2 would correctly describe a method for immobilizing a manual valve.

Basis for proposed no significant hazards consideration determination:
The proposed amendment would change the Millstone Unit 3 Technical Specifications (TS) as follows: (1) an editorial change to 4.6.2.1 and 4.6.2.2 would be made to improve readability and (2) an editorial change to TS 3/4.9.1.2 would correctly describe a method for immobilizing a manual valve.
simply clarifies that removal of air or electrical power and installation of mechanical stops are not necessary on a manually operated valve. The proposed change would correct an inconsistency between as built conditions and TS 3/4.9.1 TS and would not otherwise change the requirements in the TS or the safety analyses.

Title 10 CFR Part 50, Section 50.92 contains standards for determining whether a proposed license amendment involves significant hazards considerations. The licensee's March 15, 1990 application addresses the significant hazards consideration standards of 10 CFR 50.92 as follows:

The proposed changes do not involve a significant hazards consideration because the changes would not:
1. Involve a significant increase in the probability or consequences of an accident previously analyzed.
2. Create the possibility of a new or different kind of accident from that previously analyzed.
3. Involve a significant reduction in the margin of safety.

The addition of the word "that" after flow path is intended to clarify the existing technical specification without changing the technical content of the surveillance requirement. There are no failure modes associated with the proposed change nor are any design basis accidents impacted by the change.

The proposed change to the surveillance requirement for valve 3CHS-V305 clarifies that removal of air or electrical power and installation of mechanical stops are not necessary on a manually operated valve. The intent of the Technical Specification remains the same by verifying that the valve is locked closed.

For these reasons, the proposed changes do not increase the probability or consequences of any event.

The specific changes proposed to the Ts involve no significant hazards consideration.

Local Public Document Room

Attorney for licensee: Gerald Garfield, Esquire, Day & Howard, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: March 28, 1990

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) relating to the Reactor Building Wide Range Vent Monitor (WRVM) instrumentation. The TS requirement that the WRVMs provide a secondary containment isolation initiation logic input signal would be deleted.

Basis for proposed no significant hazards consideration determination: 10 CFR 50.92 states that a proposed amendment does not involve a significant hazards consideration if it does 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 proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated. The automatic secondary containment isolation function is presently duplicated by the existing Reactor Building Plenum Monitoring instrumentation. The plenum monitoring instrumentation provides single-failure proof isolation signals for the secondary containment isolation to limit the release of radioactive gaseous effluents during design basis accident conditions. The elimination of WRVM signals for secondary containment isolation will, therefore, not increase the probability or consequences of an accident previously evaluated.

The proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated. The WRVM system will remain installed and operable to provide a monitoring function. Only the secondary containment automatic isolation logic input function is being deleted. The proposed amendment will, therefore, not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed amendment will not involve a significant reduction in the margin of safety. An automatic secondary containment isolation function will continue to be provided by the redundant Plenum Monitors for accident conditions. The WRVMs will provide monitoring information to enable control room operators to initiate any necessary manual actions appropriate for other plant conditions.

The proposed amendment, therefore, does not involve a significant reduction in any margin of safety.

Based on the above analysis, the staff has made a proposed determination of no significant hazards consideration for the proposed amendment.

Local Public Document Room
location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John O. Thoma, Acting.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of amendment request: March 20, 1990

Description of amendment request: The amendment would make several administrative changes to the Technical Specifications (TSs) for Limerick, Unit 1 to eliminate differences between Unit 1 and Unit 2 TSs. On August 25, 1989, the NRC issued a full power license for Limerick, Unit 2 along with a new set of TSs (NUREG 1376). During the development of the Unit 2 TSs, the general objective was to keep the Unit 2 TSs identical to the Unit 1 TSs since the same persons operate both units. However, there were a few changes to the existing Unit 1 TSs proposed by the NRC staff which the applicant accepted. The changes proposed by the licensee in this application are to incorporate the same revisions into the Unit 1 TSs as were included in the Unit 2 TSs so the operators will have as nearly identical TSs as possible. (Some differences are necessary due to differences in design.)

The specific changes proposed to the Unit 1 TSs are described below:
1. Revise Note 4 in Table 3.3.1-1, Table 4.3.1-1 and Section 3.6.5.1.2 of the TS in accordance with the changes previously made to Note 4 in TS Sections 3.6.5.1.2 and
3.6.5.3 by Unit 1 TS Amendment 28. These changes clarified the definition of OPERATIONAL CONDITION * but the changes were not implemented in every TS which references OPERATIONAL CONDITION *. This is an administrative change to achieve consistency throughout the Unit 1 TS and to eliminate differences between Unit 1 and Unit 2 TS.

2. Review TS Section 4.3.2.2.2 by incorporating the changes incorporated by NRC in the original Unit 2 TS. This change is an administrative change to clarify the fact that some seismic instruments are not accessible during power operation and to clarify when these instruments are required to be restored to OPERABLE status following an actuation.

3. Delete the statements/notes from TS Sections 4.6.5.3.g and 4.7.2.e.3 and TS Bases 3/4.6.5 which refer to “initial criticality of Unit 2” and “the issuance of the Unit 2 full power operating license.” These events have already occurred and therefore the statements/notes no longer apply and can be administratively removed.

4. Add “COMMON SYSTEM” to the TS Section 3.1.8.3.2.2 for Standby Gas Treatment System (SGTS) and to the TS Section 3/4.7.2 title for Control Room Emergency Fresh Air Supply System (CREFAS). The NRC proposed and implemented the same editorial change to the Residual Heat Removal Service Water System (RHR SW) and the Emergency Service Water System (ESW) in Unit 1 TS.

Amendment to clarify that there is an interdependency between units. This interdependency exists for SGTS and CREFAS and the proposed change will achieve consistency throughout the Unit 1 TS. The appropriate changes to the corresponding TS Index pages and Bases pages will also be made. This change was incorporated by the NRC throughout the original Unit 2 for the SGTS, CREFAS, RHR SW and ESW.

5. Revise the Action statements for the diesel generators in TS Section 3.9.1.1 to incorporate the more restrictive Action requirements which were administratively required by PORC Position 45 as committed to in PECO’s June 14, 1989 letter to the NRC and incorporated in the original Unit 2 TS.

6. Add a statement to TS Bases 3/4.4.3.2 concerning the Action requirements for pressure isolation valves. This is an administrative change to the TS Bases which was requested by the NRC during the development of the Unit 2 TS in order to clarify the existing bases. This change will eliminate differences between the Unit 1 and Unit 2 TS.

7. Add an asterisk to the title of TS Section 6.3.1.2. “Monitoring Reports,” to indicate that a single submittal of the report is made for both units. This is an administrative change to achieve consistency between Unit 1 and Unit 2 TS.

8. Add Table 3.6.2: Significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if 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; (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 license has provided an analysis of no significant hazards considerations with the request for the license amendment. The license’s analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below:

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to the TS will achieve consistency throughout the TS, provide clarification, correct errors, eliminate statements that no longer apply, and make editorial changes. These are purely administrative changes. The proposed diesel generator TS ACTION changes administratively incorporate into the TS previously implemented requirements that are more restrictive than the requirements presently included in the TS. The proposed changes to the TS do not affect plant design, hardware, system operation, or procedures. Therefore, the proposed changes will not result in a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

As discussed in Item 1. above, the proposed TS changes are purely administrative changes and do not affect plant design, hardware, system operation, or procedures. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed changes do not involve a significant reduction in a margin of safety.

As discussed in Item 1. above, the proposed TS changes are purely administrative changes and do not affect plant design, hardware, system operation, or procedures. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The staff has reviewed the licensees’ analyses and agrees with it. Therefore, we conclude that the amendment satisfies the three criteria listed in 10 CFR 50.92(c). Based on that conclusion, the staff proposes to approve the proposed amendment.

The proposed amendment involves no significant hazards consideration. Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.
amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with this proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (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 licensee has provided an analysis of no significant hazards considerations with the request for the license amendment. The licensee’s analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The limit of 3.25 times the specified surveillance interval for any three consecutive surveillance intervals is intended to preclude routine use of the provision for extending a surveillance interval by 25 percent. However, many TS surveillance tests can only be performed during a plant shutdown and the situation may arise when a forced plant shutdown is the only alternative to exceeding the allowable surveillance interval limit. Additionally, conditions can exist that are not suitable for performing surveillance testing, during transient plant operating conditions or conditions in which safety systems are out of service because of ongoing surveillance or maintenance activities. During these situations, the proposed removal of the limit of 3.25 times the specified surveillance interval for three consecutive surveillance intervals results in a greater benefit to safety than limiting the use of the 25 percent allowance on extending surveillance intervals, as discussed in GL 69-11.

This proposed change will not adversely affect any plant hardware, plant design, safety limit settings, or plant system operation. Thus, this proposed change does not modify or add any initiating parameters that would increase the probability or the consequences of an accident previously evaluated.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change only involves the removal of the 3.25 limit for extending surveillance intervals and does not involve any change to safety-related equipment. There is no change to operational configurations or any new accident precursors or scenarios created which could result in a malfunction or accident of a different type. As such, the plant initial conditions in the Final Safety Analysis Report (FSAR) for the Design Basis Accident analysis remain valid and the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed change does not involve a significant reduction in a margin of safety.

The margin of safety is currently based on an allowable extension of 25 percent to the specified surveillance interval with the combined time interval for any three (3) consecutive surveillance intervals not to exceed 3.25 times the specified interval. The proposed removal of the limit of 3.25 times the specified surveillance interval does not result in a reduction in a margin of safety. This proposed change has been determined to result in a net safety benefit. This safety benefit is realized when a surveillance interval is extended at a time when conditions are not suitable for performing the surveillance or a forced shutdown is required to comply with the surveillance limit. Therefore, the safety benefit of allowing the unrestricted use of the 25 percent extension to surveillance intervals outweighs any benefit derived by limiting three (3) consecutive surveillance intervals to the 3.25 limit. Therefore, this proposed change does not reduce a margin of safety.

The staff has reviewed the licensee’s submittal and significant hazards analysis and concurs with the licensee’s determination that the proposed amendment does not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room
location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19404.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 26, 1990

Description of amendment request:
The proposed amendments would revise Technical Specifications (TS) Section 6.5.2 requirements for Nuclear Review Board (NRB) membership and meeting frequency and would add TS requirements for an Independent Safety Engineering Group (ISEG). The Nuclear Review Board, in conjunction with the Plant Operations Review Committee (PORC), will review the proposed changes and advise the Executive Vice President-Nuclear of the NRB’s determination as to whether the proposed changes are required. The NRB is not addressed in any margin of safety consideration if 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; (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 proposed changes to the NRB membership and meeting frequency do not alter the function of the NRB which is to provide independent review and audit of plant activities. The proposed changes apply to administrative controls which do not affect equipment performance or operator actions associated with mitigating an accident. Further, the proposed changes do not affect the initial conditions or precursors assumed in any Updated Final Safety Report (UFSA). The proposed changes do not involve any plant modifications or hardware changes. Since the NRC reports to and advises the Executive Vice President-Nuclear, the NRB may ultimately have an indirect impact on plant safety if the advice to the Executive Vice President-Nuclear results in plant management implementing changes in the areas of maintenance, modifications or operations. In addition, the proposed changes to the NRB do not introduce any new plant configurations, testing methods or operating scenarios.

(3) The proposed changes do not result in a significant reduction in the margin of safety.

The NRB is not addressed in any margin of safety consideration if 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; (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.

Therefore, proposed changes to NRB
Local Public Document Room


Attorney for Licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: March 8, 1990

Description of amendment request:
The proposed amendments would revise Technical Specifications 3.2.C, 3.5.I, 3.5.J, and 3.5.K of Appendix A of the licenses to replace the values of cycle-specific parameter limits with a reference to the Core Operating Limits Report, which contains the values of those limits. In addition, the Core Operating Limits Report has been included in the Definitions Section of the Technical Specifications (TS) to note that it is the unit-specific document that provides these limits for the current operating cycle. Furthermore, the definition notes that the values of these cycle-specific parameter limits are to be determined in accordance with Specification 6.9.1.e. This Specification requires that the Core Operating Limits be determined for each operating cycle in accordance with the referenced NRC-approved methodology for these limits and consistent with the applicable limits of the safety analysis presented in the facility's Updated Final Safety Analysis Report (UFSAR). Finally, this report and any mid-cycle revisions shall be provided to the NRC upon issuance. NRC Generic Letter 88-16, dated October 4, 1988, provided guidance to licensees on requests for removal of the values of cycle-specific parameter limits from TS. The licensee's proposed amendments are in response to this Generic Letter and involve the above items and associated changes.

The proposed amendments would also make miscellaneous administrative changes to make clarifications to TS Table 3.2.C and to correct typographical errors in various TS pages including those for TS 4.5.K,2.C, Bases for TS 3.5.H, 3.5.I, 3.5.L, and 4.5.L, and TS 6.9.1.C.

Basis for proposed no significant hazards consideration determination:
The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if 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.

With regard to the proposed revisions related to cycle-specific parameter limits, the licensee provided a no significant hazards consideration analysis to support a no significant hazards consideration for these revisions as follows:

i) The proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The proposed revisions do not create the possibility of a new or different kind of accident from any accident previously evaluated; or the proposed revisions do not involve a significant increase in the probability or consequences of an accident previously evaluated; or do not alter the method of analyses for establishing each limit. These methods are previously approved by the NRC to ensure that the bases for each specification will be met by the analysis. This change requires that the methodology used for these limits be previously approved by the NRC and that the methods are listed in the Administrative Section of the Technical Specifications. Since the methodology will maintain the limits within the margin of safety required by the Technical Specification Bases, this change will have no effect on any margin of safety as analyzed in the UFSAR and are defined in the Technical Specification Bases.

The licensee has concluded that the proposed revisions meet the three standards in 10 CFR 50.92(c), and therefore involve no significant hazards consideration.
consideration. The NRC staff has made a preliminary review of the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Accordingly, the staff proposes to determine that the proposed amendments involve no significant hazards consideration.

With regard to the miscellaneous administrative changes, the licensee has concluded that the proposed changes involve no significant hazards consideration. Based on a review of the licensee's proposed changes and analysis, the staff has determined the following:

(i) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because the changes would make clarifications to a TS table and correct various typographical errors. None of these changes will affect plant hardware, plant design, safety limit settings, or plant system operation and therefore do not modify or add any initiating parameters that would increase the probability or consequences of any previously analyzed accident. Similarly, these changes have no effect on plant response to events and postulated accidents.

(ii) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because the changes correct errors and provide clarification. The proposed changes do not affect any equipment nor do they involve any potential initiating events that would create any new or different kind of accident.

(iii) The proposed changes do not involve a significant reduction in a margin of safety because the changes, which correct errors and provide clarification, do not affect any equipment involved in potential initiating events or safety limit settings. The staff proposes to determine that the proposed administrative changes do not involve a significant hazards consideration.

Based on the above assessment, the staff concurs with the licensee's determination that the proposed license amendments, which involve revisions related to cycle-specific parameter limits and miscellaneous administrative changes, do not involve a significant hazards consideration. Therefore, the staff proposes to determine that the proposed amendments involve no significant hazards consideration. The Commission has provided a list of examples of amendments that are not likely to involve a significant hazards consideration. Example (vii) from this list states:

A change to conform a license to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

The proposed change reflects current nuclear industry standards' recommendations and NRC RG requirements, and as such, it is similar to Example (vii) discussed above and does not involve a significant hazards consideration. The staff has reviewed the licensee's no significant hazards analysis and concurs with the licensee's conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room
Location: Portland State University Library, 731 S.W. Harrison Street, Portland, Oregon 97207.

Attorney for Licensee: Troy B. Conner, Jr., 1747 Pennsylvania Avenue, N.W., Washington, DC 20006

NRC Project Director: Charles M. Trammell, Acting

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: December 1, 1988

Description of amendment request:
The proposed amendment would reduce the reactor protection system reactor coolant low pressure trip setpoint from greater than or equal to 1983.4 psig to greater than or equal to 1900 psig and correspondingly modify the variable low pressure setpoint.

Basis for proposed no significant hazards consideration determination:
The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility
in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (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 licensee has provided the following analysis of no significant hazards considerations using the Commission's standards.

Toledo Edison has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the Davis-Besse Nuclear Power Station, Unit No. 1, in accordance with these changes would:

1. Not involve a significant increase in the probability or consequences of an accident previously evaluated because for all accidents evaluated in Chapter 15 of the USAR, except for the letdown line break, the current accident analyses remain bounding. The reduced low pressure trip and revised VLFT setpoints do not adversely affect any of these Chapter 15 accidents since the new setpoints ensure that these accidents still satisfy the USAR Chapter 15 acceptance criteria. For the letdown line break, the change in setpoints causes an increase in radiological doses over what is presently reported in the USAR; however, the increased results are, in part, attributed to the assumptions made in the re-analysis of not taking any credit for iodine removal due to operation of the EVS. Additionally, the results still satisfy the USAR Chapter 15 acceptance criteria and are less than 10% of the 10 CFR 100 limits. The proposed action does not make any hardware changes and by reducing the setpoints, potential challenges to equipment important to safety are expected to be reduced due to the reduction in unnecessary reactor trips.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because there have been no actual hardware or plant configuration changes to RPS. Analysis has shown that the reduced RPS low pressure trip setpoint and the revised VLFT setpoint still ensure that the minimum DNBR for steady state, normal operational transients, and accident conditions exceeds 1.3.

3. Not involve a significant reduction in a margin of safety because the margin of safety required by the Technical Specifications is a minimum DNBR of no less than 1.3 for any normal or accident condition and analyses have proven the DNBR will exceed 1.3 as required.

Based on the previous discussions, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; does not create the possibility of a new or different kind of accident from any accident previously evaluated; and does not involve a reduction in the required margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. The staff, therefore, proposes to determine that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room
Location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: John N. Hannon

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Duke Power Company, Docket Nos. 50-309 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina
Date of application for amendments: February 15, 1990

Brief description of amendments: The proposed amendments would change the Technical Specifications to allow the use of Babcock and Wilcox sleeves for steam generator tube repair as an alternative to tube removal from service by use of plugs.

Date of individual notice in Federal Register: March 14, 1990 (55 FR 6920).
Expiration date of notice: April 13, 1990

Local Public Document Room
Location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-488 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendments request: March 7, 1990

Brief description of amendments request: The amendments revise Table 3.3.6 of the Technical Specifications to eliminate the applicability of Action 38 to the pressure level monitoring instrumentation and incorporates Action 43. Action 43 considers the additional redundancy existing at the South Texas station to measure pressurizer level.

Date of publication of individual notice in Federal Register: March 16, 1990 (55 FR 10017).
Expiration date of individual notice: April 16, 1990

Local Public Document Rooms:
Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton Texas 77488 and Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701

Long Island Lighting Company No. 50-322, Shoreham Nuclear Power Station, Unit 1, Suffolk County, New York

Date of amendment request: December 15, 1989

Brief description of amendment request: This notice would add on page 8 of Operating License No. NPF-82, immediately following the text of License Condition 2.C(13), a new License Condition 2.C(14), to read as follows:

The requirements set forth in License Conditions (9) through (13) will not apply if the following conditions exist: (1) The reactor is void of all fuel assemblies; and (2) The spent fuel, with a burnup of approximately two effective full-power days, is stored in the spent fuel storage pool or other approved storage configuration.

This request for license amendment, coupled with the licensee's request for exemption from the requirements of 10 CFR 50.54(q) and proposed changes to its Shoreham Nuclear Power Station Emergency Preparedness Plan, would allow the licensee to cease its offsite emergency preparedness activities.

Date of publication of individual notice in Federal Register: March 30, 1990 (54 FR 12076).
Expiration date of individual notice: April 30, 1990

Local Public Document Room
Location: Shoreham-Wading River Public
NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission’s rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission’s rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission’s related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission’s Public Document Room, the Celman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arkansas Power & Light Company, Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Units 1 and 2, Pope County, Arkansas

Date of amendment requests: October 19, 1989
Brief description of amendments: The amendments removed the limit on extending surveillances wherein the combined time interval for any three consecutive surveillances intervals could not exceed 3.25 times the specified surveillance interval. The amendments also removed the 25 percent allowance on reducing surveillance intervals.

Date of issuance: April 5, 1990
Effective date: 30 days after date of issuance
Amendment Nos.: 129 and 103
Facility Operating License Nos. DPR-51 and NPP-8. Amendment revised the Technical Specifications.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: July 13, 1989
Brief description of amendment: The amendment revises the Technical Specifications to authorize operation of Indian Point 2 with Hudson River (ultimate heat sink) water temperatures of up to a maximum of 95° F and with containment air temperatures of up to 130° F. The analyses for this amendment were performed at reactor core power levels of up to 3071.4 MWt, the power level recently approved in License Amendment No. 148.

Date of issuance: March 27, 1990
Effective date: March 27, 1990
Amendment No.: 149
Facility Operating License No. DPR-26: Amendment revised the Technical Specifications.

Commonwealth Edison Company, Docket No. 50-265, Quad Cities Nuclear Power Station, Unit 2, Rock Island County, Illinois

Date of application for amendment: January 15, 1990
Brief description of amendment: Revision of Technical Specifications to change the safety limit Minimum Critical Power Ratio (MCPR) for 1.04 to 1.06 to accommodate the use of GE 8x8NB fuel.

Date of issuance: April 5, 1990
Effective date: April 5, 1990
Amendment No.: 120
Facility Operating License No. DPR-30. Amendment revised the Technical Specifications.


No significant hazards consideration comments received: No
Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: April 3, 1989 as supplemented by letter dated December 18, 1989.

Brief description of amendment: This amendment revises Tables 3.17.1, 4.1.1 and 4.1.2 of the Technical Specifications and adds Sections 4.0.3, 4.0.4 and 4.0.5.

Date of issuance: March 23, 1990
Effective date: March 23, 1990
Amendment No.: 130
Provisional Operating License No. DPH-20. The amendment revises the Technical Specifications.

Date of initial notice in Federal Register: September 13, 1989 (54 FR 37852). Since the date of the initial notice, additional information (December 18, 1989) was submitted in response to a Commission request for additional information. This additional information did not alter the action or affect the initial determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 23, 1990.

No significant hazards consideration comments received: No.


Duke Power Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: December 22, 1988 as supplemented May 10, 1989.

Brief description of amendment: This amendment revises Technical Specifications. Section 4.0.8 to incorporate the NRC staff positions on the inspection schedule, methods and personnel, and sample expansion for piped identified in accordance with Generic Letter 86-01.

Date of issuance: March 26, 1990
Effective date: March 26, 1990
Amendment No.: 52
Facility Operating License No. NPF-43. The amendment revises the Technical Specifications.


No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: November 10, 1989
Brief description of amendments: The amendments revise TS 3.1.3.5, Figure 3.1-1, and Basis 3.4/1.3 to modify the fully withdrawn control rod bank insertion limits from 228 steps to at least 225 steps.

Date of issuance: March 21, 1990
Effective date: March 21, 1990
Amendment Nos.: 71 and 65
Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.


No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: December 21, 1989
Brief description of amendments: The amendments change the TSs for Units 1 and 2 by removing the provision of TS 4.0.2 that limits the combined time interval for three consecutive surveillances to less than 3.25 times the specified interval. The amendments are in accordance with Generic Letter (GL) 89-14, "Line-Item Improvements in Technical Specifications - Removal of the 3.25 Limit on Extending Surveillance Intervals."

Date of issuance: March 27, 1990
Effective date: March 27, 1990
Amendment Nos.: 72 and 66
Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.


No significant hazards consideration comments received: No.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Florida Power and Light Company, Docket No. 50-251, Turkey Point Plant Unit 4, Dade County, Florida

Date of application for amendments: November 17, 1989
Brief description of amendments: This amendment deletes License Condition 3J which applied the International Atomic Energy Agency (IAEA) safeguards inspection program to Turkey Point Unit 4. In early 1988, the IAEA informed the U.S. Department of State that Turkey Point Unit 4 had been deleted from its safeguards inspection program. In a December 2, 1988, letter from the NRC, Florida Power and Light Company was informed that the license condition was terminated and could be deleted. This license amendment completes the administrative paperwork to remove an obsolete license condition from the Turkey Point license.

Date of issuance: April 3, 1990
Effective date: April 3, 1990
Amendment No.: 130
Facility Operating License No. DPR-41: Amendment revised Facility Operating License No. DPR-41.


No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket No. 50-498, South Texas Project, Unit 1, Matagorda County, Texas.

Date of amendment request: January 25, 1989.

Brief description of amendment: The proposed amendment changed the Technical Specifications by modifying the calibration requirements for the source range neutron monitor circuitry to allow for the installation of a new model low noise preamplifier.

Date of issuance: April 3, 1990.

Effective date: 30 days after issuance.

Amendment No.: 13.

Facility Operating License No. NPF-78. Amendment revised the Technical Specifications.


No significant hazards consideration comments received: No.

Local Public Document Room location: The Vesperian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan.

Date of application for amendments: February 25, 1988.

Brief description of amendments: These amendments would delete Specification 4.6.2h which requires compliance with Section 27 of the 1976 Edition of the NFPA Code. The NFPA Code specifies that fire brigade training be conducted on a monthly basis, whereas guidance provided by the NRC specifies that fire brigade training need only be conducted on a quarterly basis.

Date of issuance: March 28, 1990.

Effective date: March 28, 1990.

Amendment Nos.: 133 and 118.

Facility Operating License Nos. DPR-53 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 15, 1989 (54 FR 47605). The Commission’s related evaluation of the amendments is contained in a Safety Evaluation dated March 26, 1990.

No significant hazards consideration comments received: No.


Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana.

Date of amendment request: December 9, 1989.

Brief description of amendment: The amendment revised the Technical Specifications to delete the requirement that combined surveillance times are not to exceed 3.25 times the specified surveillance interval. This change was made in accordance with Generic Letter 89-14.

Date of issuance: April 2, 1990.

Effective date: April 2, 1990.

Amendment No.: 62.

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.


No significant hazards consideration comments received: No.


Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York.

Date of application for amendment: June 1, 1989 as amended August 8, 1989 and February 20, 1990.

Brief description of amendment: This amendment revises Technical Specification Table 4.6.2g “instrumentation that Initiates Control Rod Withdrawal Block - Surveillance Requirement” and Table 4.6.2g. Note g. to (1) delete the calibration requirement for the SRM and IRM Detector Not in Startup Position and inoperative instrument channels, (2) delete the sensor check requirement on all SRM and IRM instrumentation channels (that initiates a control rod withdrawal block), and (3) revise Table 4.6.2g. Note g. to reflect the changes made to Table 4.6.2g.

Date of issuance: April 5, 1990.

Effective date: April 5, 1990.

Amendment No.: 114.

Facility Operating License No. DPR-63. Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: August 23, 1989 (54 FR 35105). The Commission’s related evaluation of the amendment is contained in a Safety Evaluation dated April 5, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.


Date of application for amendment: August 3, 1998.

Brief description of amendment: This amendment revises Sections 3/4.3.3, 3/4.3.3 and the associated Bases to change the Nominal Trip Setpoints and Allowable Values pertaining to High
Pressure Core Spray and Reactor Core Isolation Cooling pump suction transfer.

Date of issuance: April 5, 1990
Effective date: April 5, 1990
Amendment No.: 13
Facility Operating License No. NPF-69: Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: January 10, 1990 (55 FR 936). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 5, 1990. No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London, Connecticut

Date of application for amendment: November 21, 1989
Brief description of amendment: Change Technical Specification 5.5.B to ensure that \( k_{in} \) of the spent fuel pool is less than or equal to 0.90 if the minimum gadolinium loading in the spent fuel versus the initial enrichment of the spent fuel is within certain limits.

Date of issuance: March 30, 1990
Effective date: March 30, 1990
Amendment No.: 43
Facility Operating License No. DPR-21: Amendment revised the Technical Specifications.


No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Omaha Public Power District, Docket No. 50-265, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: January 26, 1990 as supplemented February 3, 1990.

Brief description of amendment: The amendment modified the Fort Calhoun Technical Specifications to support the Cycle 13 operation and corrected typographical errors.

Date of issuance: April 4, 1990
Effective date: Prior to the reactor going critical after the 1990 outage.
Amendment No.: 126

Facility Operating License No. DPR-40: Amendment revised the Technical Specifications.


No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendment: August 5, 1988
Brief description of amendments: Changed the License Conditions related to Fire Protection Program.

Date of issuance: March 27, 1990
Effective date: March 27, 1990
Amendment Nos.: 95 and 63
Facility Operating License Nos. NPF-14 and NPF-22: These amendments revised the License.


No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Pennsylvania Power and Light Company, Docket No. 50-387
Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: June 22, 1989
Brief description of amendment: This amendment revised the Technical Specifications to correct operating limits of Minimum Critical Power Ratio (MCPR) values and made some editorial changes.

Date of issuance: April 2, 1990
Effective date: April 2, 1990
Amendment No.: 96
Facility Operating License No. NPF-14: This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 26, 1989 (54 FR 31133). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 2, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Unit Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: July 12, 1989
Brief description of amendments: These amendments changed the Technical Specifications to decrease the required calibration frequency for reactor water level [narrow range] and reactor pressure surveillance instrumentation.

Date of issuance: March 27, 1990
Effective date: March 27, 1990
Amendments Nos.: 153 and 154
Facility Operating License Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 19, 1989 (54 FR 30298). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 27, 1990.

No significant hazards consideration comments received: No.


Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: July 24, 1989
Brief description of amendment: This amendment removes requirements for the Rod Sequence Control System from the Technical Specifications and modifies the specifications associated with the Rod Worth Minimizer.

Date of issuance: March 29, 1990
Effective date: March 29, 1990
Amendment No.: 155
Facility Operating License No. DPR-58: Amendment revised the Technical Specification.

Date of initial notice in Federal Register: November 1, 1989 (54 FR 40933). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 29, 1990.
No significant hazards consideration comments received: No

Power Authority of the State of New York, Docket No. 50-286, Indian Point, Unit No. 3, Westchester County, New York

Date of application for amendment: March 10, 1989, as supplemented by a letter dated February 9, 1990.

Brief description of amendment: The amendment revises the Technical Specifications to (1) allow less frequent testing of turbine steam stop and control valves and (2) eliminate Limiting Conditions for Operation and Surveillance Requirements for the reactor coolant system (RCS) vent paths.

Date of issuance: March 19, 1990

Effective date: March 19, 1990

Amendment No.: 93

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.


No significant hazards consideration comments received: No

Local Public Document Room

location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Power Authority of the State of New York, Docket No. 50-286, Indian Point, Unit No. 3, Westchester County, New York

Date of application for amendment: December 30, 1988

Brief description of amendment: The amendment revises the Technical Specifications to change the Limiting Conditions for Operation (LCO) for the isolation valve seal water system and the weld channel and penetration pressurization system (WC&PPS) to more closely reflect the system design and the appropriate Westinghouse Standard Technical Specifications. The change will also relocate an LCO for the WC&PPS to Section 3.3 from Section 4.4. Surveillance Requirements.

Date of issuance: March 30, 1990

Effective date: March 30, 1990

Amendment No.: 94

Facility Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 8, 1989 (54 FR 6293).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 30, 1990.

No significant hazards consideration comments received: No

Local Public Document Room

location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 07070

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendments: March 6, 1990 (TS 276)

Brief description of amendments: These amendments revised the Browns Ferry Technical Specifications by removing previous temporary amendments (151, 147, and 122), clarifying operability requirements for the Standby Gas Treatment System, and revising limitations on secondary containment operability.

Date of issuance: March 30, 1990

Effective date: March 30, 1990

Amendments Nos.: 174, 177, 145

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: March 15, 1990 (55 FR 9789).

This notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by April 16, 1990, but indicated that if the Commission made a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation of these amendments, finding of exigent circumstances, and final determination of no significant hazards considerations are contained in a Safety Evaluation Report dated March 30, 1990.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, Etti B33, Knoxville, Tennessee 37902

Local Public Document Room

location: Athens Public Library, South Street, Athens, Alabama 35611.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: October 5, 1989 (TS 89-40)

Brief description of amendments: The amendments modify Section 3/4.4.11, Reactor Coolant System Vents, of the Sequoyah Nuclear Plant, Units 1 and 2, Technical Specifications (TSes). The changes revise TS 3/4.4.11 for the reactor coolant system (RCS) vent paths and make corresponding changes to the
The changes restrict TS 3/4.11 to only Technical Specifications. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 22, 1990. No significant hazards consideration comments received: No

Local Public Document Room
location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 58-327 and 58-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: January 12, 1990 as supplemented by letters dated February 9 and March 1, 1990 (TS 89-92)

Brief description of amendments: The amendments modify Section 3/4.9.8 Residual Heat Removal and Coolant Circulation, of the Sequoyah Nuclear Plant, Units 1 and 2, Technical Specifications. The changes to Surveillance Requirement 4.9.8.1 for both units decrease the minimum allowed flowrate for a residual heat removal loop from 2,500 gpm to 2,000 gpm in reactor Mode 6, refueling operations.

Date of issuance: April 2, 1990
Effective date: April 2, 1990
Amendment Nos.: 134, 121
Facility Operating License Nos. DPR-77 and DPR-79: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 1, 1989 (54 FR 46160). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 22, 1990.

No significant hazards consideration comments received: No

Local Public Document Room
location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.


Date of application for amendments: January 9, 1990

Brief description of amendments: This amendment revises Technical Specification 3/4.3.7.5.4, Accident Monitoring Instrumentation, by eliminating the requirement for two accident monitoring instruments. Specifically, instrument 24, Post-Accident Sampling Containment Atmospheric Radiation Monitor, and instrument 29, Post-Accident Sampling Primary Coolant Radiation Monitor are removed from Table 3.3.7.5-1, Accident Monitoring Instrumentation. The surveillance requirements for these two instruments are also eliminated by removing the instruments from Table 4.3.7.5-1, Accident Monitoring Instrumentation Surveillance Requirements.

Date of issuance: April 2, 1990
Effective date: April 2, 1990
Amendment No.: 79
Facility Operating License No. NPF-21: Amendment changes the Technical Specifications.

Date of initial notice in Federal Register: October 18, 1989 (54 FR 42866). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 2, 1990.

No significant hazards consideration comments requested: No

Local Public Document Room
location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.


Date of application for amendments: January 9, 1990

Brief description of amendments: This amendment revises Technical Specification 3.4.2, "Safety/Relief Valves," by changing the applicability of the condition that at least 12 of the 18 safety/relief valves be operable to apply only when reactor thermal power is greater than or equal to 25 percent of rated thermal power. This condition is identified as condition 3.4.2 a. A new condition (3.4.2 b.) is added to require that at least 4 of the 18 valves be operable in operational conditions 1, 2, or 3, when thermal power is less than 25 percent of rated thermal power.

Date of issuance: April 4, 1990
Effective date: April 4, 1990
Amendment No.: 80

Facility Operating License No. NPF-21: Amendment changes the Technical Specifications.


No significant hazards consideration comments requested: No

Local Public Document Room
location: Richland City Library, Swift and Northgate Streets, Richland, Washington 99352.

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: February 7, 1990

Brief description of amendment: The amendment revised the Technical Specifications. The amendment revised Technical Specification 3.0.4 is allowed for Action statements which permit continued plant operation for an unlimited period of time. The licensee's request to establish a consistent allowed outage time prior to placing the CREVS in its emergency operation mode was deferred pending development of the staff's Technical Specification Improvement Program.

Date of issuance: March 28, 1990
Effective date: March 28, 1990
Amendment No.: 37
Facility Operating License No. NPF-42: Amendment revised the Technical Specifications.


No significant hazards consideration comments received: No

Local Public Document Room
location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: February 7, 1990

Brief description of amendment: The amendment revised Technical Specification 4.6.2.3.a. by reducing the minimum cooling water flow rate to...
each containment fan cooler group from 2200 gpm to 1850 gpm during normal operations. The plant Design Basis Accident cooling water flow rate to each cooler group was not affected by this change.

Date of issuance: April 2, 1990
Effective date: April 2, 1990
Amendment No.: 38
Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 21, 1990 (55 FR 6127).

The Commission’s related evaluation of the amendment is contained in a Safety Evaluation dated April 2, 1990.

No significant hazards consideration comments received: No.

Local Public Document Room
Location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law, Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 11th day of April 1990.

For the Nuclear Regulatory Commission

Steven A. Varga,
Director, Division of Reactor Projects-I/II.

Office of Nuclear Reactor Regulation

Appendix B to the Facility License

Environmental Statement Related to the Need for the Proposed Action under 10 CFR 50.5(b)(2).

No significant adverse environmental impact. The potential for discharge of the biocide will be injected at the trash racks located at the entrance to the intake tunnel of the service water intake structure and other points as necessary. The biocide is designed to control Asiatic Clams and is anticipated to help control MIC. Treatment would be daily at an application rate of 5 to 15 ppm for 1 to 4 hours and would be scheduled so that the potential for discharge of the biocide to the Monticello Reservoir through the service water intake/circulating water intake cross-connect pipe would be limited.

The data provided by the supplier (Betz) of the biocide indicated that CT-1 is fairly toxic to non-target organisms. The 96 hour LC50 for bluegill sunfish is 4.3 mg/l and the 48 hour LC50 for Daphnia magna is 0.41 mg/l. Betz claims that the biocide is rapidly deactivated by adsorption on suspended particles in the water. Such a deactivation property is utilized to reduce the chance of biological effects caused by the active ingredients in CT-1. However, this same mode of deactivation may also affect CT-1’s effectiveness in controlling clams.

The addition of CT-1 to the service water system could result in biological effects being noted in the service water pond, in Monticello Reservoir at both the circulating water intake and discharge, and within the circulating water system itself. The licensee controls the service water pond, and it is not considered public water. The effects on organisms in this pond are of little concern. A proposed change involves an unreviewed environmental question if it concerns: (1) A matter that may result in a significant increase in any adverse environmental impact previously evaluated in the Final Environmental Statement (FES), as modified by the staff’s testimony to the Atomic Safety and Licensing Board (ASLB), supplements to the FES, environmental goals, or in any decisions of the ASLB; (2) a significant change in effluents or power level (in accordance with 10 CFR 51.5(b)(2)) or (3) a matter not previously reviewed and evaluated in the documents specified in (1) of this paragraph, which may have significant adverse environmental impact. In addition, Licensee Condition 2.F requires the licensee to provide written notification to the NRC and to receive written approval from the NRC before proceeding in activities that may result in a significant adverse environmental impact that was not evaluated or that is significantly greater than that evaluated in the FES.

In a May 19, 1989 letter, the licensee proposed implementation of a full scale treatment program for the service water system using a biocide. The purpose of the biocide was to control microbiologically induced corrosion (MIC) and biological fouling from Asiatic Clams. Such fouling led to restricted flow in the service water to the reactor building cooling units during a May 12, 1988 reactor trip. Accordingly, the licensee has reviewed the use of the biocide, performed an environmental evaluation of its use, and determined that use of the biocide is an unreviewed environmental question. Therefore, they have submitted a written evaluation to the staff and requested permission to use the biocide. They have also requested and have received approval from the South Carolina Department of Health and Environmental Control (SCDHEC) for the utilization of the biocide.

The Need for the Proposed Action

The granting of this request would allow the licensee to treat the service water system with the Betz Clam-trol (CT-1) biocide. The service water system is a safety-related system which is utilized to provide cooling for the emergency diesel generators, component cooling heat exchangers, and heating ventilating and air conditioning mechanical water chiller condensers. The service water system also cools the reactor building cooling units under: (1) Post-accident or high containment pressure conditions, loss of non-class 1E power; and (2) loss of industrial cooling water or during testing. The service water system is also a backup source for the emergency feedwater and component cooling water systems. Four problems contribute to service water system degradation. They are Asiatic clam fouling, MIC, soft-water corrosion, and sil't deposition and fouling. The degradation of service water flow to safety related systems could magnify the consequences of a transient or an accident. The licensee is proposing the use of the biocide to prevent degradation caused by MIC and Asiatic clams. Another form of treatment must be utilized to limit the degradation caused by soft-water corrosion and by silt deposition and fouling.

Environmental Impacts of the Proposed Action

3.1 Radiological Impacts

There are no radiological impacts as a result of the use of the biocide.

3.2 Non-radiological Impacts

The Betz CT-1 biocide is a blend of organic biocides that contains no heavy metals or EPA priority pollutants. The biocide will be injected at the trash racks located at the entrance to the intake tunnel of the service water intake structure and other points as necessary. The biocide is designed to control Asiatic Clams and is anticipated to help control MIC. Treatment would be daily at an application rate of 5 to 15 ppm for 1 to 4 hours and would be scheduled so that the potential for discharge of the biocide to the Monticello Reservoir through the service water intake/circulating water intake cross-connect pipe would be limited.
consequence unless these effects cause problems in Monticello Reservoir. The licensee indicated that deactivation by suspended material should preclude any significant effects in the service water pond. There is a 36° pipe connecting the service water intake structure with the circulating water intake structure which allows the exchange of water between the Monticello Reservoir and the service water pond. Water flows from the service water pond to Monticello Reservoir only when the level of the Monticello Reservoir is dropping. This occurs when the Fairfield Pumped Storage Facility (FPSF) is generating, i.e., releasing water from the Monticello Reservoir to the Broad River. Thus, this is the only time that the biocide could be discharged from the service water pond to Monticello Reservoir.

The location of the discharge point into Monticello Reservoir from the service water pond depends upon the operating status of the circulating water pumps. If the pumps are operating, water from the interconnecting pipe is entrained in the flow through the circulating water system and discharged through the circulating water discharge canal. If the circulating water pumps are not operating, then discharge would occur through the circulating water intake.

In a report prepared for the licensee, it was indicated that since deactivation of the biocide reduces the potential impact of the biocide, the biocide should be restricted to favorable lake level conditions, i.e., FPSF pumping back or idle. This would prevent the release of active components of the biocide to the Monticello Reservoir. Thus, it was recommended in the report that application of the biocide during idle periods be delayed until the lake level and service water pond level stabilize.

The licensee indicated in their submittal that they would be applying the biocide one to four per day into the normal service water flow rate of 24,000 gpm. To minimize the convection of the biocide to the circulating water intake via the 36° cross-connect pipe, application will only be made at night when the FPSF is either pumping up from the Broad River or when the FPSF is sitting idle. The net effect is that flow in the cross-connect pipe will be either toward the SW intake or stagnant during application.

The licensee's submittal stated that significant impacts could occur if the biocide was not deactivated. Impacts could include increased mortality of fish and not easily quantifiable increases in entrainment losses to zooplankton and ichthyoplankton that are transported through the endusers. The report prepared for the licensee recommended that a sampling and analysis program be implemented to monitor the level of biocide in the service water pond.

The report also indicated that the level of CT-1 in water that can cause mortality in zooplankton (48 hour LC50 for Daphnia magna of 0.41 mg/l) has not been measurable with the analytical methods available. However, a new detection methodology proposed by Betz may allow detection. Nevertheless, a situation could occur where water might be considered free of biocide, but still contain enough active ingredients to affect the zooplankton. However, expected dilutions and deactivation by adsorption should reduce possible effects.

The licensee evaluated the possible effect of introducing the active and inert components (ethylene glycol and isopropanol) of the biocide into the drinking water system at the Summer Station via the raw water supply which is located at the circulating water intake structure. The restriction of biocide use to periods of favorable lake level conditions should prevent the introduction of the active components of the biocide into the raw water supply. Inert ingredients, if not degradable, could concentrate in the service water system. Ethylene glycol was viewed as a potential problem. However, the licensee indicated that ethylene glycol degrades in the environment and would not concentrate in the service water system. Other inert ingredient concentrations should not increase to the point which would affect drinking water quality.

Section 2 of the Summer Environmental Protection Plan states that the NRC will rely on SCDHEC to handle matters involving water quality and aquatic biota. On December 22, 1983, the licensee made a request to SCDHEC for modification of their NPDES Permit to approve use of CT-1. On October 31, 1989, SCDHEC approved the use of the biocide with the following stipulations:

1. The end-of-pipe concentration discharge of CT-1 to the circulating water intake shall not exceed 0.41 ppm.
2. Sampling of the discharge to show compliance with Item 1 shall be once per week for the first month of application. The sampling result shall be submitted within thirty days of the last sampling date. Additional sampling may be required based on these results.
3. Application of the biocide may be made only during times that the FPSF is either pumping up from the Broad River or sitting idle.

The Commission has evaluated the impact of the proposed action. The limitations on the use of the biocide should minimize the discharge of the biocide to the Monticello Reservoir thereby minimizing the impact upon the biota. The concentration limit for the discharge from the end-of-pipe to the circulating water discharge should ensure that the Daphnia magna is unaffected. The Commission has also determined that sufficient environmental monitoring will occur to determine whether the biocide will impact upon the Monticello Reservoir.

Alternatives to the Proposed Action

Two alternatives exist in lieu of the proposed actions. They are to remain in the status quo, i.e., do nothing or to continuously treat with chlorination. Although chlorination has been shown to be effective in controlling Asiatic clams, it has been shown to increase corrosion at the Summer plant due to soft-water attack. Continued operation under the existing conditions to prevail would make the service water system potentially susceptible to degraded conditions as a result of reduced flow.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Summer FES.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's request for the use of the biocide. The staff discussed the licensee's proposed action with the SCDHEC.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed action. Based upon the foregoing environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further information with respect to this action, see the application previously listed, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555 and at the Fairfax County Library, Garden and Washington Streets, Warrenton, South Carolina 29160.

Dated at Rockville, Maryland, this 6th day of April, 1990.
For the Nuclear Regulatory Commission.

Elinor G. Adensam,
Director, Project Directorate II-1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-9003 Filed 4-17-90; 8:45 am]
BILLING CODE 7950-01-M

State of Illinois; Staff Assessment of Proposed Amendment Number One to the Agreement Between the Nuclear Regulatory Commission and the State of Illinois

Note: This document was originally published on March 28, 1990, at 55 FR 11459. It is republished at the request of the issuing agency.

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Proposed Amended Agreement with State of Illinois.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is publishing for public comment the NRC staff assessment of a proposed amendment to the existing section 274b agreement between the NRC and the State of Illinois which became effective June 1, 1987. The request dated April 11, 1989 from Governor James R. Thompson of the State of Illinois, if approved, would permit Illinois to regulate byproduct materials as defined in section 11e.(2) of the Atomic Energy Act, as amended, (uranium or thorium mill tailings) in conformance with the requirements of section 274O of the Atomic Energy Act of 1954, as amended (the Act).

A staff assessment of the State's proposed radiation control program to implement the amended agreement is set forth below as supplementary information of this notice. A copy of the complete program description submitted by Illinois, including a program statement prepared by the State describing the State's proposed program for control over byproduct materials as defined in section 11e.(2) of the Act, State legislation, and Illinois regulations, is available for public inspection at the Commission's Public Document Room at 2120 L Street, NW. Washington, DC. the Commission's Region III Office at 799 Roosevelt Road, Building No. 4, Glen Ellyn, Illinois, and the Illinois Department of Nuclear Safety at 1035 Outer Park Drive, Springfield, Illinois. Exemptions from and reservations of the Commission's regulatory authority, which would implement this proposed amendment to the existing 274b agreement, have been published in the Federal Register and codified as Part 150 of the Commission's regulations in Title 10 of the Code of Federal Regulations.

DATES: Comments must be received on or before April 27, 1990.

ADDRESSES: Submit written comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Services Branch. Comments may also be delivered to 11555 Rockville Pike, Rockville, Maryland from 7:45 a.m. to 4:15 p.m. Monday through Friday. Copies of comments received by NRC may be examined at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.


SUPPLEMENTARY INFORMATION: Assessment of proposed amended Illinois Program to regulate certain radioactive materials pursuant to section 274 of the Atomic Energy Act of 1954, as amended (the Act).

The Commission has received a proposal from the Governor of Illinois for the State to amend its agreement with the NRC whereby the NRC would relinquish and the State would assume regulatory responsibility for byproduct material as defined in section 11e.(2) of the Act, pursuant to section 274 of the Act.

Section 274e of the Act requires that the terms of the proposed agreement be published for public comment once each week for four consecutive weeks. Accordingly, this notice will be published four times in the Federal Register.

I. Background

A. Section 274 of the Act provides a mechanism whereby the NRC may transfer to the State certain regulatory authority over agreement materials 1 when a State desires to assume this authority and the Governor certifies that the State has an adequate regulatory program, and when the Commission finds that the State's program is compatible with that of the NRC and is adequate to protect the public health and safety. Section 274g directs the Commission to cooperate with the States in the formulation of standards for protection against radiation hazards to assure that State and Commission programs for radiation protection will be coordinated and compatible. Further, section 274j provides that the Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

The Uranium Mill Tailings Radiation Control Act of 1978 amended the requirements of section 274 of the Atomic Energy Act, by adding section 274o which imposed certain requirements that must be met by Agreement States in order to regulate uranium and thorium mill tailings after November 8, 1981.

B. On May 18, 1987, the Governor of Illinois signed an agreement with the NRC for the assumption of regulatory authority for byproduct material as defined in section 11e.(1) of the Act, source material, special nuclear material in quantities not sufficient to form a critical mass, and the land disposal of source, byproduct, and special nuclear material received from other persons. This agreement became effective on June 1, 1987. In a letter dated April 11, 1989, Governor James R. Thompson of the State of Illinois requested that the Commission entered into an amended agreement with the State pursuant to section 274 of the Act under which the State would assume responsibility for regulating uranium and thorium mill tailings (11e.(2) byproduct material) and the operations that generate such material. The Governor certified that the State of Illinois has a program for control of radiation hazards which is adequate to protect the public health and safety with respect to the materials within the State covered by the proposed amendment to the agreement, and that the State of Illinois desires to assume regulatory responsibility for such materials. The text of the proposed amendment to the agreement is shown in Appendix A.

The specific authority requested is for source material recovery activities including the uranium and thorium mill tailing (byproduct material as defined in section 11e.(2) of the Act). The proposed amendment to the agreement covers the following areas:

1. Amending Article I of the Agreement of May 18, 1987 to add the extraction or concentration of source material from any ore processed primarily for its source material content and the management and disposal of the resulting byproduct material, as defined in section 11e.(2) of the Act to the list of materials covered by the agreement.

2. Amending Article II of the Agreement of May 18, 1987 by inserting...
In rendering this decision, the Commission upheld the position that the thorium-contaminated materials described in (2) above should be classified as source material. It further held that the thorium-contaminated material in Kress Creek should be classified as 113.(2) byproduct material. Consequently, in order for the State of Illinois to regulate the latter, the State of Illinois would need to have its existing Agreement amended to demonstrate compliance with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978, as amended. Details relating to the Rare Earths Facility are contained in the Final Environmental Statement (NUREG-0004, 1983) and the Supplement to the Final Environmental Statement (NUREG-0004, Supplement No. 1, 1989) related to the decommissioning of the Rare Earths Facility, West Chicago, Illinois.

On February 13, 1990, the Atomic Safety and Licensing Board (Licensing Board) issued a decision directing the staff to issue a license amendment authorizing Kerr-McGee to dispose of the 11e.(2) byproduct material as proposed by Kerr-McGee in its application. The staff issued the amendment on February 23, 1990. The State of Illinois and the City of West Chicago each filed a Notice of Appeal before the Atomic Safety and Licensing Appeal Board (Appeal Board). The State of Illinois and the City of West Chicago also requested the Appeal Board to stay the Licensing Board's decision. The Appeal Board issued an Order on March 13, 1990 denying the State's and the City's requests for a stay.

C. Ill. Rev. Stat. 1965, ch. 127, par. 63b17, the enabling statute for the Illinois Department of Nuclear Safety (IDNS) and Ill. Rev. Stat. 1987, ch. 111 1/2, par. 211-229, the Illinois Radiation Protection Act authorize the Department to issue licenses to, and perform inspections of, users of radioactive materials under the Agreement and otherwise carry out a total radiation control. Illinois regulations for radiation protection were adopted on September 25, 1986 under authority of the enabling statute and provide standards, licensing, inspection, enforcement and administrative procedures for agreement and non-agreement materials. These standards and procedures became effective on June 1, 1987, the effective date of the Agreement. As amended by P.A. 85-1160, effective August 5, 1988, the Illinois Radiation Protection Act authorizes the IDNS to regulate byproduct material as defined in section 11e.(2) of the Act. To provide for licensing of 11e.(2) byproduct material and source material recovery facilities which generate 11e.(2) byproduct material, a new Part 332 has been added to the Illinois Administrative Code (32 Ill. Adm. Code 332). These regulations were finalized on January 4, 1990 and will become effective when the Amendment Number One becomes effective. On February 6, 1990, Kerr-McGee sought judicial review of the final regulations in the Illinois courts (Kerr-McGee Chemical Corp. v. IDNS, No. 90MR49; Ill. Cir. Ct., Sangamon County). This proceeding is still pending.

On January 10, 1990, the Illinois General Assembly Joint Committee on Administrative Rules (JCARI) met and issued 13 objections to the final regulations for source material recovery and 11e.(2) byproduct material (32 Ill. Adm. Code 332). These objections were published in the Illinois Register on February 2, 1990. In accordance with Section 7.07 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1987, ch. 127, par. 1007.07), IDNS has 90 days to respond to the objections and, if IDNS does not respond within 90 days, the lack of response will constitute a refusal to amend or repeal this rule. Unless the JCARI drafts and introduces legislation requiring IDNS to implement the recommendations, no further actions are required of IDNS.

D. On June 1, 1987, Illinois assumed regulatory authority for (1) byproduct material as defined in section 11e.(1) of the Act, (2) source material, (3) special nuclear material in quantities not sufficient to form a critical mass, and (4) permanent disposal of low-level radioactive waste containing one or more of the foregoing materials but not containing uranium and thorium mill tailings (byproduct material as defined in section 11e.(a) of the Act). The program audits conducted since that time have resulted in NRC findings that the Illinois radiation control program is compatible with that of the NRC and is adequate to protect public health and safety.

Illinois is one of two States with a cabinet-level agency devoted exclusively to radiation safety and control. Illinois' role in radiation safety is traceable to 1955 when the Illinois General Assembly created the Atomic Power Investigating Commission. The Illinois Department of Nuclear Safety Program provides a comprehensive program encompassing radiation protection regulations for radioactive materials and machine-produced radiation, lasers, low-level radioactive waste management, surveillance of transportation of radioactive materials and environmental radiation.
functions concerning nuclear power and emergency preparedness.

E. The proposed amendment to the Illinois agreement will cover the regulation of source material extraction from ores processed primarily for their source material content and the management and disposal of the resulting tailings and other wastes (byproduct material as defined in section 11(e)(2) of the Act). The State's proposed program for the regulation of source material extraction and 11(e)(2) byproduct material is assessed under Criteria 29 through 36 of the guidelines published by NRC. Criteria for Guidance of States and NRC is Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement. These criteria are specifically identified as "Additional Criteria for States Regulating Uranium or Thorium Processors and Wastes Resulting Therefrom After November 8, 1961" and addressed the Statutes, Regulations, Organizational Relationships Within the States, Personnel, Functions To Be Covered, and Instrumentation. Prior evaluation of the Illinois program in accordance with Criteria 1 through 28, was addressed in the staff assessment of the original Illinois proposed agreement published in the Federal Register on January 21, 1987 (52 FR 2309-2324).

II. NRC Staff Assessment of the Proposed Illinois' Radiation Control Program for Control of Uranium and Thorium Processors and the Waste Resulting Therefrom

Reference: Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement.

A. Statutes

29. State statutes or duly promulgated regulations should be enacted, if not already in place, to make clear State authority to carry out the requirements of Public Law 95-604, Uranium Mill Tailings Radiation Control Act, as amended (UMTRCA).

Based on the analysis of the State's revised statutes, regulations, and the State's program statement, the staff concludes that the Illinois Radiation Protection Act and the State's implementing regulations provide adequate authority for Illinois to regulate section 11(e)(2) byproduct material in accordance with the requirements of the Uranium Mill Tailings Radiation Control Act, as amended. The Radiation Protection Act requires the IDNS to provide, by rule or regulation, standards for the protection of the public health and safety and the environment that are equivalent, to the extent practicable, or more stringent than, the standards adopted and enforced by NRC for 11(e)(2) byproduct material, including standards issued by the Environmental Protection Agency (EPA). The Illinois Radiation Protection Act also authorizes IDNS to require licensees to provide adequate financial security to assure that all of the IDNS requirements for the decontamination, decommissioning, and reclamation of sites, structures, and equipment used in connection with the generation or disposal of section 11(e)(2) byproduct material have been met. Authority is also provided to transfer to the Federal government funds which have been collected by the State for long-term surveillance and maintenance if custody of the byproduct material and its disposal site is transferred to the Federal government. Provisions of the Illinois Administrative Procedure Act (III. Rev. Stat. 1987, ch. 127, par. 1005) and Illinois regulations (32 Ill. Adm. Code Parts 200 and 332) implement the procedural requirements for the issuance of licenses and rules prescribed in sections 274o(3) [A] and (B) of the Act, and identified in Criterion 29d., e., and g. These requirements relate to such matters as opportunity for written comments, public hearings, cross examination, and judicial review.


30. In the enactment of any supporting legislation, the State should take into account the reservations of authority to the Commission UMTRCA as stated in 10 CFR 150.18a.

The staff has reviewed the Illinois Radiation Protection Act, as amended, and has determined that these reservations of authority to the Commission are incorporated in the Illinois statute and are adequately discussed in the program statement.


31. Section 274o(3)(C) of the Act requires that in the licensing and regulation of ores processed primarily for their source material content and for the disposal of the resulting byproduct material, States shall establish procedures which provide a written analysis of the impact on the environment of the licensing activity. This analysis shall be available to the public before commencement of hearings and shall include:

a. An assessment of the radiological and nonradiological public health impacts;

b. An assessment of any impact on any body of water or groundwater;

c. Consideration of alternatives to the licensed activities; and,

d. Consideration of long-term impacts of licensed activities.

The State's statutes and its implementing regulations provide sufficient authority for the IDNS to comply with the environmental assessment procedures required by UMTRCA. Part 332 of Illinois regulations (section 332.100) addresses the procedural requirements for environmental assessments and defines the scope of assessments and associated administrative procedures. In accordance with Criterion 29f., section 332.100 of the Illinois regulations bans major construction prior to completion of the environmental analysis.


B. Regulations

32. State regulations should be reviewed for regulatory requirements, and where necessary, incorporate regulatory language which is equivalent, to the extent practicable, or more stringent than regulations and standards adopted and enforced by the Commission, as required by section 274o (see 10 CFR 40, Appendix A. and 10 CFR 150.31(b)).

On January 10, 1990 (effective date: January 4, 1990), final Illinois regulations (32 Ill. Adm. Code Part 332) were submitted to NRC completing the Governor's package submitted April 11, 1989. These final regulations establish State regulations that are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements and standards promulgated by the Environmental Protection Agency. It is the staff's opinion that these rules have, to the maximum extent practicable, achieved the same objective as the
40.14(a) or a provision for approving a to 10 CFR part 40 that states following NRC performance standards have been provided for in the Introduction of regulations is considered more stringent paragraph of section 274o can be made. NRC requirements. The sections are be considered to be more stringent than the NRC regulations more stringent than NRC's treatment of the tailings which is not stringent in that it requires chemical subsection b) is considered more for at least 200 years.''

This section does not have criterion 6 of appendix a to 10 CFR part 40: 1. Section 332.20—Definition of Buffer Zone. 2. Section 332.20—Definition of Minor Custodial Activities. 3. Section 332.20—Definition of Postclosure. 4. Section 332.20—Definition of Reclamation. This term is used in 10 CFR Part 40; however, this definition is not in NRC's regulations. 5. Section 332.140—This criterion is not in 10 CFR part 40; however, it is generally consistent with NRC's licensing practice. 6. Section 332.210 b)—This criterion is not in 10 CFR part 50; however, it is consistent with 10 CFR 20.106(a). 7. Section 332.160—This criterion is not in 10 CFR part 40. 8. Section 332.210—The siting criteria in subparts (b) (1), (2), (3), (6), and (7) are not contained in 10 CFR part 40. 9. Section 332.230 (a)—Such a ban of release of liquids is not in NRC's regulations. 10. Section 332.290 (e)—No annual financial report is required by NRC. Reference: 32 Ill. Adm. Code part 332.

C. Organizational Relationships Within the State

33. Organizational relationships should be established which will provide for an effective regulatory program for uranium mills and mill tailings. Charts should be developed which show the hierarchy, organization and lines of authority. These charts should define the specific lines of supervision from program management within the radiation control group and any other department within the State responsible for contributing to the regulation of source material processing and disposal of the resulting tailings. When other State agencies or regional offices are utilized, the lines of communication and administrative control between other agencies and/or regions and the program director should be clearly drawn.

Organizational charts outlining the IDNS structure have been included in the application. From these organizational charts, it has been determined that the IDNS has a structure capable of regulating all phases of source material milling activities including the preparation of environmental assessments. This conclusion is based on the following findings: (1) The Office of Radiation Safety has been designated as the lead office within IDNS for regulating uranium and thorium processing and the resulting ne. (2) The administrative, technical, legal and emergency support functions will be provided from other offices within IDNS, i.e., Office of Legal Counsel, Office of Environmental Safety, Office of Nuclear Facility Safety, and Office of Administrative Services. Internal responsibilities have been described by the IDNS to be as follows: (1) overall program management will be implemented by the Director; (2) the Office of Radiation Safety is responsible for the licensing of radioactive materials and will be the lead office for processing all license applications and preparation of environmental assessments; (3) the Office of Environmental Safety is to assist in the evaluation of environmental impacts and to provide support for all laboratory analysis and environmental monitoring; (4) the Office of Nuclear Facility Safety will assist in the evaluation of potential radiological accidents; (5) the Office of Legal Counsel will provide assistance in all legal matters; and (6) the Office of Administrative Services will assist in budgeting and personnel management. IDNS has further stated that for those areas of environmental assessments that IDNS believes consultation to be appropriate, other State agencies or private consultants will be contracted to help in the environmental assessment. IDNS has indicated that assistance from the Illinois Department of Energy and Natural Resources and the State Water Survey Division may be sought for hydrologic assessments. NRC staff notes that the IDNS did not provide any formal agreements, such as MOUs with any of these other organizations that, if put in place, would assure their availability in a timely manner.

However, IDNS has previously executed contracts with other State agencies. As an example, IDNS has executed a MOU with the Illinois Environmental Protection Agency regarding the disposal of water treatment wastes. Although the program statement did not specifically identify the source or amount of funds, it did state that IDNS will provide for funds if such funds are deemed necessary and the Office of Administrative Services will assist in contract preparation and fiscal management. For those situations where consultants are used, IDNS stated that they will seek assistance from their legal counsel to avoid conflicts of interest. IDNS has not provided any specific
information about the budget or proposed budget for the portion of the radiation control program allocated to the regulation of uranium and thorium mills and 11e.(2) byproduct material. However, the IDNS has committed to the allocation of sufficient staff time to handle the uranium and thorium mills and 11e.(2) byproduct material currently in the State.

The program statement reveals that IDNS has not identified any specific medical consultants that would be available for medical questions that may be encountered with the uranium or thorium milling industry and its 11e.(2) byproduct material. The program statement states that, should medical assistance be needed, IDNS will seek assistance from a national laboratory such as Argonne National Laboratory. Such assistance has been requested and provided in the past.

Experience has shown that a scoping document is a valuable tool for bringing an environmental assessment to a satisfactory conclusion. IDNS indicated that if assistance is requested through contracts or MOUs adequate guidance such as a scoping document will be prepared by the IDNS. This document will delineate areas and scope of work to be performed within a given time constraint by each participating agency or contractor.

Reference: Illinois Program Statement, Section III.

D. Personnel

34. Personnel needed in the processing of the license application can be identified or grouped according to the following skills: Technical, Administrative, and Support.

In order to meet the requirements of UMTRCA, it is estimated that on the order of 2 to 2.75 total professional person-years' effort is necessary to process and evaluate a new conventional mill license, in-situ license, or major license renewal. A complete review of in-plant safety, completion of an environmental assessment, and use of consultants in these assessments are primary considerations in the total professional effort for each licensing case. With respect to clerical support, one secretary is usually required to process two conventional milling applications. Legal support is also an essential element of the mill program, and the effort is believed to be a minimum of one-half staff year. In addition, consideration must be given to such post-licensing activities as issuance of minor amendments, mill inspection, and environmental monitoring. Professional staff effort for these activities is estimated at 0.5 to 1.0 person-years for each year of post-licensing activities.

Currently there are no active uranium or thorium mills processing ore for its source material content in the State of Illinois. However, as identified in the introduction, one facility located at West Chicago has been identified as a closed facility which has associated with it radiologically contaminated material on and offsite. As stated earlier, the radiologically contaminated material in and along Kress Creek and the West Branch of the DuPage River is 11e.(2) byproduct material in addition to the material on the West Chicago site. This material would come under the regulatory authority of the IDNS upon consummation of Illinois request for an amended agreement. The regulatory activities assumed by the IDNS upon execution of the amended agreement would center mainly around decommissioning and reclamation of the West Chicago site and its associated wastes.

In the application for amendment of the agreement as updated March 14, 1990, the IDNS had identified 11 key technical personnel for use in regulation uranium and thorium processing facilities and their associated 11e.(2) byproduct material. A review of these staff resumes shows that they have the necessary education, training, and experience to ensure effective implementation of a regulatory program.

Seven key administrative personnel have been identified by the IDNS who will provide the necessary management guidance and policy direction necessary to assure completion of the licensing action. The positions of the seven personnel in the IDNS structure are the director, four office managers, one assistant office manager, and one division chief.

Four key persons have been identified as providing operational support, legal support, and laboratory services. The positions of these four people are one chief legal counsel, one senior staff attorney, one section chief of radiology, and one division chief of radiochemistry.

The NRC staff has concluded that the total professional staff-years effort which is available within the IDNS and will be directly responsible for regulating uranium and thorium mills and 11e.(2) byproduct material is within the guidelines and consists of the necessary specialities for evaluating license applications. Additionally, IDNS has identified several consultants that will be utilized, if necessary.

Abridged versions of the curricula vitae for key IDNS personnel involved in the regulation of source material milling facilities and 11e.(2) byproduct material are as follows (as updated by IDNS on March 14, 1990):

Administrative Personnel:

T.L. Laash, Ph.D.—Director, IDNS; Ph.D. Molecular Biophysics and Biochemistry, Yale University; M.Ph. Molecular Biophysics and Biochemistry, Yale University; B.A. Physics, Reed College. Work Experience, 1970 to present, held positions as Postdoctoral Fellow, Yale University; Staff Scientist, NRDC; Director, Science and Public Policy, the Keystone Center; Science Director, Scientists' Institute for Public Information; Deputy Director, IDNS, and Director, IDNS.

P.D. Eastvold—Manager, Office of Radiation Safety; B.S. General Science/Nuclear Medical Technology, University of Iowa. Work Experience, 1970 to present, held positions in the Radiation Protection Office, University of Iowa; Illinois Department of Public Health; and as Manager, Office of Radiation Safety, IDNS.

G.W. Kerr, CHP—Assistant Office Manager, Office of Radiation Safety; M.A. Economics, Trinity College; B.A. Biology, Peru State College. Work Experience, 1956 to present, held positions as Senior Industrial Hygienist, Pratt and Whitney Aircraft; Technical staff positions, Atomic Energy Commission; Manager and Assistant Director for State Agreements, USNRC; Director, Office of State Programs, USNRC; Independent Consultant; and Assistant Office Manager, Office of Radiation Safety, IDNS.

C.W. Miller, Ph.D.—Manager, Office of Environmental Safety; B.S. Biometricalemes/Health Physics, Purdue University; M.S. Meteorology, University of Michigan; B.S. Physics/Math, Ball State University. Work Experience, 1957 to present, held positions in Anderson College in Physics; Health and Safety Research Division, Oak Ridge National Laboratory, and as Nuclear Safety Scientist, Office of Nuclear Facility Safety; and Manager, Office of Environmental Safety, IDNS.

R.R. Wright—Manager, Office of Nuclear Facility Safety; Master of Public Administration, American University; B.S. Engineering, U.S. Naval Academy; Undergraduate Studies, Geology, Oklahoma University. Work Experience, 1954 to present, held positions in U.S. Navy, Nuclear Propulsion plants, Nuclear Submarines and Nuclear Weapons; Advance Science and Technology Associates Inc.; and as Manager, Office of Nuclear Facility Safety, IDNS.

D.A. Jaszewski—Manager, Office of Administrative Services; M.S. Business
Public Management, University of Wisconsin; M.A. Public Policy and Administration, University of Wisconsin; B.A. Political Science and Economics, University of Wisconsin. Work Experience, 1973 to present, held positions as Research Assistant, Public Expenditure Survey of Wisconsin, Inc.; Budget Analyst and Management Systems Specialist, Illinois Department of Transportation; Chief Fiscal Officer, Illinois Department of Financial Institutions; Associate Director for Administration, Illinois Emergency Services and Disaster Agency; and Manager, Office of Administrative Services, IDNS.

S.C. Collins—Chief, Division of Radioactive Materials; M.S. Radiation Science (physical sciences), University of Arkansas School of Medical Sciences; B.A. Mathematics/Chemistry, Arkansas Tech University. Work Experience, 1967 to present, held positions as laboratory assistant and instructor, Arkansas Tech University; Health Physicist II, Arkansas State Department of Health; Nuclear Medical Science Office, U.S. Army Reserve; Public Health Physicist II, Florida Division of Health; Radiation Specialist IV, Louisiana Nuclear Energy Division; Environmental Program Manager, Louisiana Nuclear Energy Division; Nuclear Medical Science Instructor, U.S. Army Academy of Health Sciences, Radiation Protection Program Manager, Louisiana Nuclear Energy Division; and Chief, Division of Radioactive Materials, IDNS.

Administrative Support Personnel: S.J. England—Chief Legal Counsel, Office of Legal Counsel, J.D. Boston University School of Law; B.A. University of Illinois. Work Experience, 1976 to present, held positions in City of Joliet, Illinois; Illinois Attorney General’s office; Illinois Department of Transportation; and as Chief Legal Counsel, Office of Legal Counsel, IDNS.

H.P. Salus—Senior Staff Attorney, Office of Legal Counsel; J.D. Washington University School of Law; B.S. Vanderbilt University. Work Experience, 1984 to present, positions as Research Assistant, Washington University School of Law; Law Clerk to Chief Judge, U.S. District Court; and Staff Attorney, Office of Legal Counsel, IDNS.

R.A. Allen—Office of Environmental Safety; B.A. Biological Sciences, Rutgers University. Work experience, 1976 to present, held positions as Health Physicist III, Roche Medi-Physics Environmental Protection Group Leader, Fermi National Accelerator Laboratory; and Radiocology Section Head, Office of Environmental Safety, IDNS.

Lih-Ching Chu, Ph.D.—Chief, Division of Radiochemistry Laboratories, Office of Environmental Safety; Ph.D. Chemistry, Washington University; M.A. Chemistry, Washington University; M.S. Chemistry, East Texas State University; B.S. Chemistry, Tankang College of Arts and Sciences. Work Experience, 1971 to present, held positions in Taiwan Military, ROC; Young-Ho Middle School, Taiwan; East Texas State University; Washington University, St. Louis; Illinois Department of Energy and Natural Resources; and as Chief, Division of Radiochemistry Laboratories, Office of Environmental Safety, IDNS.

Technical Personnel: J.G. Klinger—Head, Licensing Section, IDNS; M.S. Health Care Management and Public Administration, Southwest Texas State University; B.S. Microbiology and Chemistry, University of Texas; A.A. Glendale Community College. Work Experience, 1966 to present, held positions in U.S. Marine Corps and U.S. Naval Reserve Medical Service Corps; Algebra Tutor, Glendale; Laboratory Assistant, University of Texas; Food and Drug Inspector, Texas Department of Health; Regional Food and Drug Supervisor, Texas Department of Health; Chief of Food Control, Division of Food and Drugs, Texas Department of Health; Special Assistant to the Commissioner for Board of Health Affairs, Texas Department of Health; Administrator, Licensing Branch, Bureau of Radiation Control, Texas Department of Health; and Head, Licensing Section, IDNS.

D.F. Harmon—Licensing, Office of Radiation Safety, IDNS; M.S. Physics, Vanderbilt University; B.S. Physics, Tennessee Technological University. Work Experience, 1985 to present, held positions in Military Service, U.S. Army; Ballistics Research Laboratory, Aberdeen Proving Ground, Maryland and Camp Mercury, Nevada Test Site; Chemistry Department, Vanderbilt University; Radiation Safety Branch, Division of Licensing and Regulations, U.S. NRC; Source and Special Nuclear Materials Branch, Division of Materials Licensing, U.S. NRC; Materials Branch, Division of Materials Licensing, U.S. NRC; Fuels and Materials Standards Branch, Directorate of Regulatory Standards, U.S. NRC; Fuels Process System Standards Branch, Office of Standards Development, U.S. NRC; Waste Management Branch, Office of Nuclear Regulatory Research, U.S. NRC; Health Effects Branch, Office of Nuclear Regulatory Research, U.S. NRC; and Licensing, Office of Radiation Safety, IDNS.

M.H. Momeni, Ph.D.—Office of Radiation Safety, IDNS; Ph.D. Biophysics/Radiation Biology, University of Iowa; M.S. Nuclear Physics, University of Iowa; B.A. Physics/Mathematics, Luther College. Work Experience, 1962 to present, held positions as Science Teacher, Urbana Consolidated Schools; Biophysicist-Lecturer, University of California, Davis; Senior Scientist, Argonne National Laboratory; Professor and Director of Health Physics Program, San Diego State University; Scientist, Oak Ridge Associated Universities; and Health Physicist, Office of Radiation Safety, IDNS.

D.J. Scherer—Licensing, Office of Radiation Safety; M.S. Physics, Virginia Polytechnic Institute and State University; B.S. Physics, Virginia Military Institute. Work Experience, 1980 to present, held positions as graduate Teaching Assistant, VPISU; Graduate Research Assistant, Stanford Linear Accelerator Center; Nuclear Medical Science Officer, U.S. Environmental Hygiene Agency; Medical Plans Officer, Officer of the Surgeon, XVIII Airborne Corps; Chief, Health Physics Section, Womack Army Community Hospital; Assistant Health Physicist, Princeton University; Senior Health Physicist and Radiation Safety Officer, Albany Medical Center; and Health Physicist, Office of Radiation Safety, IDNS.

D.A. Huckaba, P.E.—Office of Radiation Safety; B.S. Civil Engineering, University of Missouri. Work Experience, 1969 to present, held positions as Highway Engineer, Missouri Department of Transportation; Chief Highway Engineer, MTA, Inc.; and Engineer, Office of Radiation Safety, IDNS.

G.N. Wright, P.E.—Office of Nuclear Facility Safety; Degree Work in Public Administration, Sangamon State University; M.S. Nuclear Engineering, University of Illinois; B.S. Physics/Mathematics, Milliken University. Work experience, 1965 to present, held positions in Westinghouse Electric Company; Sangamo-Weston Electronics Company; Illinois Department of Public Health; and as Senior Nuclear Engineer, Office of Radiation Safety, IDNS.

D.D. Ed—Office of Environmental Safety; B.S. Chemistry, University of Illinois. Work experience, 1972 to present, held positions in Illinois Environmental Protection Agency, Illinois Department of Public Health; and as Nuclear Safety Scientist, Office of Environmental Safety, IDNS.

T.A. Kerr—Chief, Division of Low-Level Waste Management, Office of
Environmental Safety; Business Administration, University of North Carolina. Work Experience 1973 to present, held positions in U.S. Navy, Electronics Technician-Reactor operator; Supervisor Solidification Services, Chem-Nuclear Systems, Inc.; Associate Instructor, Duke Power Co.; and as Chief, Division of Low-Level Waste Management, IDNS. M.E. Klebs, P.E.—Office of Environmental Safety; M.S. Mining Engineering, Montana College of Mineral Science and Technology; B.S. Mining Engineering, Montana College of Mineral Science and Technology. Work Experience, 1982 to present, held positions as Mining Engineer, Shell Mining Co.; and Nuclear Safety Engineer, Office of Environmental Safety, IDNS. C.G. Vinson—Office of Radiation Safety; B.S. Biology, Furman University. Work Experience, 1983 to present, held positions as Industrial Hygiene Technician, J.P. Stevens Textile Company; Technical Engineer, Industrial Engineering Specialist, Union Camp Corporation; Health Physicist and Section Manager, Bureau of Radiological Health, South Carolina Department of Health and Environmental Control; and Health Physicist, Office of Radiation Safety, IDNS. M. Walle—Office of Radiation Safety; B.S. Earth Sciences, University of New Orleans; ARRT, Mercy Hospital School of X-Ray Technology. Work Experience, 1985 to present, held positions as Radiological Technologist, Mercy Hospital; Nuclear Medicine Technologist, Pathology Medical Services, PC; Engineering-Geologist, U.S. Army Corps of Engineers; Civil Materials Technician, Geo. International; Civil Construction Inspector, Minority Engineers of Louisiana; Project Manager, Nuclear Gauge Radiation Safety Officer, U.S. Testing Co., Inc.; and Health Physicist, Office of Radiation Safety, IDNS. IDNS recognizes that a skilled and experienced staff is essential to accomplishing its mission. Consequently, technical training is a high priority for the IDNS. The IDNS training coordinator is developing a comprehensive technical and managerial training program, using a wide variety of professional seminars and courses. Courses may be sponsored by either government or private sector organizations. In addition, in-house courses to supplement outside training are arranged as necessary. These in-house courses are presented either by IDNS staff or outside contractors. The IDNS has stated that for active extraction and concentration facilities it will allocate from 2.5 to 5.75 person-years for each major licensing action. This time will be apportioned as follows: 2 to 2.75 staff years effort for technical and administrative activities; 0.5 to 1 staff year effort for legal support; and 2 staff years effort for clerical support.

Following initial licensure, IDNS plans to assign an annual average of from 0.5 to 1 full-time equivalent staffing for each license. This allocation is for inspections, environmental assessments, minor amendments and environmental surveillance. IDNS anticipates that less time might be required to administer a license authorizing only decontamination, decommissioning, disposal, or post-closure monitoring. This appears to be a reasonable assumption on the part of IDNS.

Many of these key personnel have complementary training to their profession and several have been identified as having training in uranium mill related topics. Some of these individuals have written or published articles on uranium mill topics. The IDNS has stated that it will consult with other State agencies. Two State agencies have been identified by the IDNS at this time as providing the IDNS assistance in reviewing the impact of byproduct material on the environment. They are the Illinois Department of Energy and Natural Resources and the Illinois Environmental Protection Agency. However, the scope and depth of work to be completed by these agencies has not been identified. Because there are no indications that any uranium milling facilities are planning to operate in Illinois at this time, and because much environmental assessment work has been completed for the Kerr-McGee site, the lack of MOUs with other State agencies is not considered a matter of paramount importance at this time. The IDNS can pursue this matter at some point in the future upon first indication that such MOUs will be necessary.


E. Functions to be Covered

35. The State should develop procedures for licensing, inspection, preparation of environmental assessments, and operational data review that define the scope of the assessments and specify associated administrative procedures. Part 332 requires that the following topics be included in the environmental assessment: an analysis of the radiological and nonradiological public health impacts; an analysis of any impact on surface water or groundwater.
consideration of alternatives to the licensed activities; and consideration of long-term impacts of licensed activities. The IDNS has stated in their program statement that environmental assessments will consist, at a minimum, of detailed and documented evaluations of the following items: Topography; Geology; Hydrology and water quality; Meteorology; Background radiation; Tailings retention system; Interim stabilization, Reclamation; Site decommissioning programs; Radiological dose assessment which addresses source terms, exposure pathways, dose commitment to individuals, dose commitment to the population, evaluation of radiological impacts to the public to include a determination of compliance with State and Federal regulations and comparisons with background values, occupational dose, and radiological impact to biota other than man; Radiological monitoring programs to include pre-operational, operational, and post-operational monitoring; Impacts to quality and quantity of surface and groundwater; Environmental effects of accidents; and Evaluation of tailings management alternatives in terms of Illinois Regulations, part 332.

The IDNS has also stated in their program statement that they will also examine the following items during preparation of environmental assessments: Ecology; Environmental effects of site preparation and facility construction; Environmental effects or use and discharge of chemicals and fuels; and Economics and social effects.

Although the IDNS regulations do not explicitly request the licensee to prepare a document called an Environmental Report, the regulations do require the licensee to provide the information in and to perform the analyses normally done in an Environmental Report.

c. Inspection and Enforcement

As a minimum, items which should be covered during the inspection of a uranium or thorium mill should be those items evaluated in the in-plant safety review, the environmental monitoring programs, and the byproduct material management plan. In addition, the inspector should perform independent surveys and sampling. A complete inspection should be performed at least once per year.

The IDNS has stated items examined during inspections will be consistent with items evaluated during licensing. IDNS will use appropriate NRC regulatory and inspection guides for guidance. A complete inspection is to be performed at least annually. As part of the IDNS inspection program, the inspectors will perform independent surveys and sampling in addition to examining aspects of licensee performance: Administration; Mill processes including any additions, deletions, or operational changes; Accidents/incidents; Notices, instructions, and reports to workers in accordance with 32 Ill. Adm. Code 400; Action taken on previous findings: A tour of the facilities at the mill including tailings and waste management to determine compliance with regulations and license conditions; Records; Respiratory protection and bioassay to determine compliance with license conditions and 32 Ill. Adm. Code 340; Effluent and environmental monitoring; Training programs; Transportation and shipping; and Internal review and audit by management. Following each inspection, the inspector will confer with licensee representatives to inform them of the inspection results. The inspectors will provide a comprehensive written report to the Springfield headquarters describing inspection findings and detailing any apparent violations.

The IDNS enforcement policy is described as follows: The IDNS states that the purpose of the enforcement program is to ensure compliance with Departmental regulations and license conditions; obtain prompt correction of violations and adverse conditions that may affect safety; deter future violations and occurrences of conditions inimical to safety; and encourage improvement of licensee performance, including prompt identification and reporting of potential safety problems.

The IDNS enforcement procedures have been described as follows: If IDNS discovers any deficiencies during an inspection, IDNS will send the licensee a written notice itemizing the area(s) of deficiency and will require the licensee to submit within 30 days of the date of the notice a written response which will state the corrective steps that have been taken by the licensee and the results achieved; the corrective steps that will be taken; and the date when full compliance will be achieved. If the licensee fails to provide an adequate response to the written notice, the IDNS normally holds a management conference with the licensee prior to taking enforcement action. The purpose of these conferences is to discuss items of deficiency or nonconformance, their significance and causes, and the licensee’s corrective action. If compliance cannot be achieved through these informal conferences, IDNS will take more formal enforcement action. All non-emergency enforcement actions will be initiated by the issuance of a Preliminary Order and Notice of Opportunity for Hearing as afforded by Code 200 of the Illinois’ regulations. The Order will itemize the alleged violations and direct the licensee to remedy these violations within a given time unless a hearing is requested within 10 days of the date of the Preliminary Order. In addition, the licensee may request an informal conference prior to or during the hearing. In cases where there is an imminent threat to public health and safety, IDNS has stated it is prepared to take immediate action in accordance with State law. State law provides that, if the IDNS finds that a condition exists which constitutes an immediate threat to public health due to the violation of any provisions of the Radiation Protection Act or any code, rule, regulation or order promulgated under the Radiation Protection Act and requires immediate action to protect the public health or welfare, IDNS may issue an order reciting the existence of such an immediate threat and the findings of the IDNS pertaining to the threat. The IDNS may summarily cause the abatement of such violation or may direct the Attorney General to obtain an injunction against such violator. An abatement order will be effective immediately, but will include notice of the time and place of a public hearing before the IDNS to be held within 30 days of the date of such order to assure the justification of such order. The IDNS has exercised this authority on two occasions since becoming an Agreement State. The first was in response to widespread facility contamination from leaking static eliminators, and the second was to remediate a health and safety hazard caused by inadequate radiation safety practices of a licensee.

Other remedial actions available to IDNS include orders to modify, suspend, or revoke licenses, assessment of civil penalties, and impoundment of radiation sources. Also, licenses may be modified, suspended or revoked to remove a threat to public health and safety and the environment, or for any reason for which license modification, suspension, or revocation is legally authorized.

No order of the IDNS, except an order to abate an immediate threat to health, will take effect until the IDNS has found upon conclusion of such hearing that a condition exists which constitutes a violation of any provision of the Radiation Protection Act or any code, rule or regulation promulgated under the Radiation Protection Act except in the event that the right to public hearing has been waived by the licensee, in which case the order shall take effect.
immediately. Follow-up inspections are to be conducted as necessary by IDNS staff to verify compliance with IDNS rules and enforcement orders and to rule out willful or flagrant violations, repeated poor performance in areas of concern, and serious breakdown in management controls. All previous areas of deficiency will also be given special attention by the inspector during the following routine inspection of the facility.

As a result of program reviews conducted on December 7-18, 1987 and January 29 through February 9, 1990, the NRC staff concluded that the IDNS has adequate control of byproduct material to which section 274 of the Act applies. Section 274 provides that the State may adopt standards for the protection of the public health and safety with respect to the materials covered by the proposed agreement.

The amendment to the State of Illinois agreement is for source material milling activities including the resulting 11e(2) byproduct material to which section 274o of the Act applies. Section 274o provides that the State adopts standards for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose. The staff has identified some sections of the State’s regulations that are considered to be more stringent than NRC’s regulations. The NRC staff has concluded that the program of the State of Illinois is in accordance with the requirements of section 274o of the Act and meets the NRC criteria for an amended agreement. The State’s regulations, personnel, and licensing, inspection, and administrative procedures are compatible with, or more stringent than, those of the Commission and are adequate to protect the public health and safety with respect to the materials covered by the proposed amendment to the Agreement.

Dated at Rockville, Maryland, this 23d day of March 1990.

For the U.S. Nuclear Regulatory Commission.

Fred Combs,
Acting Director, State Programs, Office of Governmental and Public Affairs.

Appendix A—Proposed Amendment Number One to the Agreement Between the United States Nuclear Regulatory Commission and the State of Illinois for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

Whereas, the United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under sections 6, 7, and 8 and section 181 of the Act with respect to byproduct materials as defined in Sections 11e(1) and (2) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and
Whereas, the Governor of the State of Illinois is authorized under Illinois Revised Statutes, 1907, ch. 111 1/2, par. 219 and ch. 111 1/2, par. 241-19 to enter into this Agreement with the Commission; and,

Whereas, on June 1, 1967, an Agreement between the Commission and the State of Illinois became effective which transferred regulatory authority over byproduct material as defined in section 11.1(1) of the Act, source materials, special nuclear materials in quantities not sufficient to form a critical mass, and the land disposal of source, byproduct, and special nuclear material received from other persons; and,

Whereas, Governor of the State of Illinois certified on that the State of Illinois found that the State of Illinois has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material; and,

Whereas, Governor of the State of Illinois certified on that the State of Illinois found that the State of Illinois has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material, and that the State desires to assume regulatory responsibility for such materials; and,

Whereas, the Commission found on that the program of the State for the regulation of the extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and,

Whereas, the State and the Commission recognize the desirability of reciprocal recognition of licenses and exemptions from licensing of those materials subject to Amendment Number One to the Agreement; and,

Whereas, Amendment Number One to the Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, Therefore, it is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

1. Article I of the Agreement is hereby amended to expand the scope of the Agreement to include the extraction or concentration of source material from any ore processed primarily for its source material content and the management and disposal of the resulting byproduct material as defined in Section 11e.2(2) of the Act. As amended, Article I now reads as follows:

Article I

Subject to the exceptions provided in Articles II, IV and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following:

A. Byproduct material as defined in Section 11e.1(1) of the Act;
B. Source materials;
C. Special nuclear materials in quantities not sufficient to form a critical mass; and,
D. The land disposal of source, byproduct, and special nuclear material received from other persons.

Pursuant to Article III, and subject to the exceptions provided in Articles II, IV and V, the Commission shall discontinue, as of the effective date of this Amendment Number One to this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following:

A. The extraction or concentration of source material from any ore processed primarily for its source material content and the management and disposal of the resulting byproduct material as defined in section 11e.2(2) of the Act;
B. The Agreement is hereby amended by inserting "A." before "This Agreement," by redesignating paragraphs A. through D. as subparagraphs 1. through 4. by deleting paragraph E. relating to the extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material, and by adding a new paragraph B. relating to authorities that will be retained by the Commission. As amended, Article II now reads as follows:

Article II

A. This Agreement does not provide for disqualification of any authority and the Commission shall retain authority and responsibility with respect to regulation of:
1. The construction and operation of any production or utilization facility;
2. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;
3. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission; and,
4. The disposal of such other byproduct, source, or special nuclear materials as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, be so disposed of without a license from the Commission.

B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct materials as defined in section 11e.1(1) of the Atomic Energy Act:
1. Prior to the termination of a State license for such byproduct material, or for any activity that results in the production of such material, the Commission shall have a determination that all applicable standards and requirements pertaining to such material have been met.
2. The Commission reserves the authority to establish minimum standards governing reclamation, long-term management and ownership of such byproduct material and of land used as a disposal site for such material.

Such reserved authority includes:
A. The authority to establish terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for such byproduct material, or for any activity that results in the production of such material, the license shall comply with decontamination, decommissioning and reclamation standards prescribed by the Commission; and with ownership requirements for such materials and its disposal site;
B. The authority to require that prior to termination of any license for such byproduct material or for any activity that results in the production of such material, title to such byproduct material and its disposal site be transferred to the United States or the State at the option of the State (provided such option is exercised prior to termination of the license);
C. The authority to permit use of the surface or subsurface estates, or both, of the land transferred to the United States or the State pursuant to paragraph 2.b. of this section in a manner consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1975, provided that the Commission determines that such use would not endanger the public health, safety, welfare, or the environment;
D. The authority to require, in the case of a license for any activity that produces such byproduct material (which license was in effect on November 8, 1981), transfer of land and material pursuant to paragraph 2.b. of this section taking into consideration the status of such material and land and interests therein, and the ability of the licensee to transfer title and custody thereof to the United States or a State;
E. The authority to require the Secretary of the Department of Energy, other Federal agency, or State, whichever has custody of such byproduct material and its disposal site, to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety, and other actions as the Commission deems necessary; and,
F. The authority to enter into arrangements as may be appropriate to assure Federal long-term surveillance of such disposal sites on land held in trust by the United States for any Indian tribe or land owned by an Indian tribe and subject to a restriction against alienation imposed by the United States.

Article IX of the Agreement is hereby amended by redesignating it Article X and by inserting a new Article IX. As amended, Articles IX and X now read as follows:

Article IX

In the licensing and regulation of byproduct material as defined in section 11e.2(2) of the Act, or of any activity which results in the production of such material, the State shall comply with the provisions of section 246 of the Act. In such licensing and regulation, the State requires financial surety
The proposed agenda is:

A. The total amount of funds the State collects for such purposes shall be transferred to the United States if custory of such material and its disposal site is transferred to the United States upon termination of the State license for such material or any activity which results in the production of such material. Such funds include, but are not limited to, sums collected for long-term surveillance or maintenance. Such funds do not, however, include monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed; and, 

B. Such State surety or other financial requirements must be sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and financial arrangements to ensure adequate reclamation and long-term surveillance of such byproduct material and its disposal site.

Article X

This Agreement shall become effective on June 1, 1987, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

4) The Agreement effective June 1, 1987 remains in effect except as modified by amendments contained in Paragraphs 1, 2, and 3 of this Amendment Number One.

5) This Amendment Number one to the June 1, 1987 Agreement shall become effective on ____, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at Rockville, Maryland, in triplicate, this ____ day of ________.

For the United States Nuclear Regulatory Commission.

Chairman.

Dated: April 12, 1990.

Barbara J. Diering,
Special Assistant, Office of Science and Technology Policy.

DTC has prepared a letter from Karen G. Lind, Associate Counsel, DTC, to Thomas C. Etter, Attorney, SEC, dated March 15, 1990.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-27885; File No. SR-DTC-89-21]

Self-Regulatory Organizations; Proposed Rule Change by Depository Trust Company Relating to a Participant Exchange Service Which Will Permit the Transmission of Various Notices on the Participant Terminal System

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 27, 1989, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization ("SRO"). The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. SRO's Statement of the Terms of Substance of the Proposed Rule Change

DTC is filing herewith a proposed rule change providing for a Participant Exchange Service ("PEX"), an on-line system which will enable DTC participants to use their Participant Terminal System ("PTS") terminals to send and respond to National Association of Securities Dealers ("NASD") and National Securities Clearing Corporation ("NSCC") buy-in notices. The proposal would permit: (1) Automated completion of paper forms required by NASD and NSCC; and (2) their transmission by electronic means rather than by physical delivery.

DTC has represented in a letter to the Commission that upon the Commission’s approval of this proposal, DTC will issue an Important Notice to all of its participants clarifying that it will not be liable for erroneous PEX transmissions.

DTC also has represented in a letter to the Commission that PEX has adequate capacity for its anticipated message traffic and that PEX operations will cause no strain on DTC’s data processing capacity.

II. SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC has included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) SRO's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to automate the current...
methods of completing the paper forms required by other SROs and sending them to the appropriate party. The proposed rule change is consistent with section 17A of the Act and the rules and regulations thereunder applicable to DTC because the proposed rule change will increase the efficiency in complying with the rules of other SROs and will aid in the enforcement of those rules.

(B) SRO's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) SRO's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The proposed rule change was developed at the request of and in cooperation with industry groups and other SROs. However, DTC has not officially solicited or received comments on its proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned SRO. All submissions should refer to File Number SR-DTC-89-21 and should be submitted by May 9, 1990.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.


Jonathan G. Katz,
Secretary.

[FR Doc. 90-9004 Filed 4-17-90; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-27888; [File No. SR-GSCC-90-02]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Proposed Rule Change Relating to Membership in Securities Clearing Group

April 10, 1990.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 6, 1990, Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-GSCC-90-02) described in Items I, II, and III below, which Items have been prepared by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposal would adopt a new Rule 29 and a Statement of Policy, both of which concern the release of clearing data.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

GSCC wishes to adopt a Statement of Policy and a new rule on the release of clearing data, which together would form the basis for GSCC's ability to enter into an agreement with the other SEC registered clearing agencies that currently constitute the Securities Clearing Group ("SCG"). A key goal of SCG is to develop procedures for the sharing of appropriate financial, operational, and clearing data on common clearing agency participants in order to minimize risks posed by such common participants.

GSCC states that it derives the authority to join SCG and sign the SCG Agreement from both its own rules and the Act. Current GSCC Rule 2 allows GSCC to examine the financial and operational conditions of its members and to receive information from other self-regulatory organizations relevant to such members. The standards for confidentiality of the information under GSCC's rules are those maintained by the members' appropriate regulatory body. Section 17A(b)(3) of the Act requires, among other things, that rules of clearing agency self-regulatory organizations must be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and to protect investors and the public interest. Section 19(g)(1) of the Act requires clearing agencies to enforce compliance by their members with clearing agency rules.

Proposed GSCC Rule 29 (Release of Clearing Data) and GSCC's proposed Statement of Policy will reiterate GSCC's rules and the sections of the Act that allow GSCC to share information as contemplated by both the agreement and the SCG. The proposal would authorize GSCC, in its sole discretion, to release clearing agency data relating to transactions of its members to: (1) Other self-regulatory organizations, (2) appropriate regulatory organizations, and (3) other persons provided that release to such other persons will be in a manner to prevent the disclosure of proprietary or confidential information of a member or group of members.

1 GSCC states in its filing that "clearing data" will mean, for the purposes of this rule, transaction data that is received by GSCC for inclusion in its clearance and settlement processes, or data, reports, or summaries thereof.

2 GSCC states in its filing that it would establish the conditions under which such data would be released and the fees, if any, for such data.
Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written communications relating to the proposed rule change that are filed with the Commission, and all written communications with respect to the proposed rule change, are available for inspection of copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to File No. SR-GSCC-90-02 and should be submitted by May 9, 1990.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.
Jonathan G. Katz, Secretary.

[FR Doc. 90-9005 Filed 4-17-90; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. IC-17419; 811-5323)

Cross-Market Opportunity Fund, Inc.; Application

April 10, 1990.

AGENCY: Securities and Exchange Commission (“SEC”).

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the “1940 Act”).

APPLICANT: Cross-Market Opportunity Fund, Inc.

RELEVANT 1940 ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company under the 1940 Act.

FILING DATE: The application on Form N-8F was filed on March 28, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC’s Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 8, 1990, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer’s interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC’s Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549.
Applicant, 713 Maryland Avenue, NE, Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: Robert B. Carroll, Staff Attorney, at (202) 272-3043, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee by either going to the SEC’s Public Reference Branch or contacting the SEC’s commercial copier at (800) 231-3922 (in Maryland (901) 258-4300).

Applicant’s Representations

1. Applicant is an open-end management investment company organized as a corporation under the General Corporation Law of Maryland on June 24, 1987. Applicant filed a registration statement on Form N-1A on September 8, 1987 with respect to an indefinite number of shares of its common stock, par value $.001 per share, which registration statement was declared effective on May 16, 1988 (File No. 811-5323). Applicant commenced a public offering of its shares on the same date.

2. On June 27, 1989, the board of directors of applicant approved, and on July 3, 1989, applicant entered into, a Plan and Agreement of Liquidation and Exchange (the “Plan”) with Tyndall-Newport Fund, Inc. (“TNF”), an open-end management investment company registered under the 1940 Act. The shareholders of applicant approved the Plan on September 15, 1989.

3. On October 2, 1989, pursuant to the Plan, applicant transferred to TNF portfolio securities and cash having an aggregate value, determined according to the procedures set forth in applicant’s prospectus and statement of additional information, equal to $940,424. In exchange, TNF issued to applicant 50,615 shares of common stock of Tyndall-Newport Far East Fund series having the same aggregate net asset value. On October 2, 1989, applicant received the Far East Fund shares and immediately made a liquidating distribution of such shares to its shareholders. On January 22, 1990, applicant transferred an additional $34,329 in cash to TNF, and TNF issued 1,500 additional
Goldman Sachs—Institutional Liquid Assets; Application

April 11, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").


RELEVANT 1940 ACT SECTIONS: 18(e)(f), 18(g) and 18(i).

SUMMARY OF APPLICATION: Applicants seek an order to permit Goldman Sachs—Institutional Liquid Assets (the "Fund"), a registered open-end investment company, to issue and sell separate classes of securities representing interests in its investment portfolios (and the allocation of voting rights thereto and payment of dividends thereon) in the manner described below.

FILING DATES: The application was filed on February 29, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing.

Hearing requests should be received by the SEC by 5:30 p.m. on May 7, 1990, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

FOR FURTHER INFORMATION CONTACT: H. R. Hallock, Jr., Special Counsel, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application: the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copywriter who can be contacted at (800) 321-3282.

Applicants' Representations

1. The Fund is a Massachusetts business trust registered under the 1940 Act as an open-end management investment company. The Fund currently offers five series of units representing interests in five separate investment portfolios: Prime Obligations Portfolio; Government Portfolio; Federal Portfolio; Treasury Obligations Portfolio; and Money Market Portfolio (such portfolios together with all series subsequently established or otherwise acquired are referred to herein as the "Portfolios"). The Fund is contemplating adding two new portfolios in connection with a proposed acquisition of Goldman Sachs Institutional Tax-Exempt Assets, another registered open-end management investment company.

2. The Portfolios are each money market portfolios. Units of each Portfolio are sold and redeemed daily at net asset value without a sales or redemption charge imposed by the Fund. The Fund has adopted a plan pursuant to Rule 12b-1 under the 1940 Act or any service plan.

3. Goldman Sachs & Co. ("Goldman Sachs") acts as the Fund's investment adviser and principal underwriter. The Fund compensates Goldman Sachs pursuant to an Advisory Agreement and a Transfer Agency Agreement. ILA Units have been, and will continue to be, distributed by Goldman Sachs pursuant to a Distribution Agreement between the Fund and Goldman Sachs. Goldman Sachs is responsible for all of its expenses in providing distribution services and does not receive any compensation for such services from the Fund.

4. In order to broaden its range of services and to expand its marketing alternatives, the Fund is contemplating the creation of two additional classes of units ("New Units") and, collectively with ILA Units, the "Units") in each Portfolio. The New Units would be offered only to or through institutions acting on behalf of customers.

5. Each Portfolio may offer classes of New Units (a) in connection with a plan adopted pursuant to Rule 12b-1 under the 1940 Act (the "Service Plan"); and/or (b) in connection with a non-Rule 12b-1 administration plan (the "Administration Plan"). The New Units offered with respect to the Plans are hereinafter referred to as the "Service Units" and the "Administrative Units", respectively.

6. Under both Plans, the Fund would enter into servicing agreements ("Service Agreements") with banks or other institutions ("Service Organizations") to provide certain support services to the customers of the Service Organizations who beneficially own Units offered with the Plans.

7. The services to be provided by Service Organizations under the Administration Plan of a Portfolio will include with respect to that Portfolio:

(a) Acting as the sole unitholder of record and nominee for all customers; maintaining account records for each customer who beneficially owns Administration Units; answering questions and handling correspondence from customers about their accounts; processing customer orders to purchase, redeem and exchange Administration Units; and providing similar account administration services (collectively, the "Account Administration Services").

(b) The services to be provided by Service Organizations under the Service Plan of a Portfolio will include with respect to that Portfolio:

(i) Providing Account Administration Services; providing facilities to answer questions from prospective and existing investors about the Fund; and acting as liaison between customers and the Fund, including obtaining information from the Fund, working with the Fund to correct errors and resolve problems and providing statistical and other information to the Fund (collectively, the "Unitholder Liaison Services").
9. The services provided pursuant to the Plans will augment, and not be duplicative of, the services to be provided to the Fund by Goldman Sachs and State Street Bank and Trust Companies. Services relate either to the internal operations of the Fund (for example, portfolio management, custody of assets, and certain recordkeeping) or to the Fund's relationships with its unitholders of record (for example, the transmission of proxy materials and reports to record unitholders). Unlike these services, the services provided under the Plans relate to the indirect relationship between the Fund and the beneficial owners of New Units.

10. Under each Plan, the Fund would pay a Service Organization for its services in accordance with the terms of the Plan and its particular Service Agreement ("Service Payments") and the expense of such payments would be borne entirely by the beneficial owners of the class of New Units of the Portfolio to which the Service Agreement relates. Service payments under the Service Plan would not exceed 75% per annum of the average daily net asset value of those Service Units beneficially owned by customers of the Service Organization. Currently the amount of such Service Payments are expected to be up to .40% per annum. Service Payments under the Administration Plan would not exceed .50% per annum, and currently such Service Payments are expected to be up to .15%. The foregoing payments might be increased in the future, upon compliance with the provisions of the related Plan, and Rule 12b-1 if applicable, but would not be increased over the limits stated above unless the exemptive order requested hereby were amended.

11. The Portfolios are presently sold primarily to institutional investors, such as bank trust departments, acting on behalf of their respective customers. It is anticipated that these investment portfolios will be offered to customers of other affiliated and unaffiliated financial institutions, broker/dealers and securities professionals, as well as to the general public. If New Units are created and Plans adopted as described above, the Fund will be able to address more precisely the needs of the particular investors and to cause the associated expenses to be borne by such investors. The Fund believes that it would be inefficient, and probably economically or operationally unfeasible, to organize a separate investment portfolio for each class of New Units to be created. Not only would the Fund incur unnecessary accounting and bookkeeping costs in organizing and operating such new Portfolios, but the Fund's management of the new Portfolios, as well as its existing Portfolios, might be hampered.

12. In order to obviate such risks, Applicants wish to use a structure under which New Units could be created without having to establish corresponding separate portfolios. Under this arrangement, each Unit in a particular Portfolio, regardless of class, would represent an equal pro-rata interest in the Portfolio and would have identical voting, dividend, liquidation and other rights, preferences, powers, restrictions, limitations, qualifications, designations and terms and conditions, except that: (a) Each class of New Units would have different class designations; (b) each class of New Units offered in connection with a Plan would bear the expense of the Service Payments that would be made under the Service Agreement that have been entered into with respect to such class; (c) each class of New Units would also bear certain other expenses ("Class Expenses") that are directly attributable only to the class; (d) only the holders of the New Units of the class or classes involved would be entitled to vote on matters pertaining to a Plan and any related agreements relating to such classes (for example, the adoption, amendment or termination of a Plan in accordance with the provisions of Rule 12b-1 or the terms of the Plan); and (e) each class would have different exchange privileges.

13. In particular, the net asset value of all outstanding Units in the same Portfolio would be computed on the same days and at the same times by adding the value of all portfolio securities and other assets belonging to the Portfolio involved, subtracting the liabilities charged to such Portfolio and dividing the result by the number of that Portfolio's outstanding Units. Further, the gross income of a Portfolio would be allocated on a pro-rata basis to each outstanding Unit in the Portfolio regardless of class. All expenses of the Fund that cannot be attributed directly to any one Portfolio will be allocated to each Portfolio based on the relative net assets of such Portfolio. Certain expenses may be attributable to a particular Portfolio, but not to a particular class. All expenses borne by a Portfolio would be borne pro rata by its unitholders regardless of class, except for the Service Payments and Class Expenses.

14. Class Expenses would consist of those expenses that relate to a Plan and that can only be directly attributable to a particular class of New Units. Currently the only Class Expenses would be the cost of preparing, printing, and mailing proxy materials relating to a particular Plan. Thus, for example, if the Fund proposed to amend a Plan of a particular Portfolio and sought approval of the class of unitholders affected by such amendment, the cost of the proxy solicitation would be a Class Expense of that class. The Applicants expect that Class Expenses will be infrequent, and will not be material expenses of any Portfolio. No other Class Expenses would be charged without obtaining an amendment of the requested exemptive order.

15. To assure that the net asset value of all Units in a Portfolio which declares a daily dividend remains the same regardless of variations in income from day to day, all Service Agreements with respect to such a portfolio will provide that the contracting Service Organization will waive, in whole or in part, its Service Payment payable under a Service Agreement in each instance and to the extent necessary to assure that the Service Payment required to be accrued by any class of Units on any day does not exceed income (before deduction of Service Payments) to be accrued with respect to such class of Units on that day.

16. Because of the Service Payments and Class Expenses that may be borne by each class of Units, the net income (and dividends payable to) each class may be different than the net income of the other classes of Units in the same Portfolio.

Applicants' Legal Analysis

1. Applicants request an exemptive order because the proposed issuance and sale of the Fund's ILA Units, Administration Units and Service Units might be deemed: (1) To result in a "senior security" within the meaning of section 18(g) of the 1940 Act and to be prohibited by section 18(j)(1) of the 1940 Act; and (2) to violate the equal voting provisions of section 18(l) of the 1940 Act. The proposed allocation of expenses and voting rights in the manner described is equitable and would not discriminate against any group of unitholders. Investors purchasing New Units and receiving the services provided under a Plan would bear the costs associated with such services, but would also enjoy exclusive unitholder voting rights with respect to matters affecting the Plan. Conversely, investors purchasing ILA Units would not bear those expenses, receive the service benefits of such Plans, or enjoy those voting rights.
2. The proposed arrangement does not involve borrowings and does not affect the Fund's existing assets of reserves. Nor will the proposed arrangement increase the speculative character of the Units in a Portfolio, since all Units—ILA, Administration Plan or Service—will participate pro rata in all of the Portfolio's income and expenses, with the exception of the Service Payments and Class Expenses. The requested exemption is appropriate, in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

Applicants' Conditions

Applicants agree that the following conditions may be imposed in any order of the SEC granting the requested relief:

1. Each class of Units of a Portfolio will represent interests in the same portfolio of investments, and be identical in all respects, except as set forth below. The only differences between the classes of Units will relate solely to:

   a) The impact of the Administration Payments made under the Administration Plan and the Service Plan and the cost of preparing, printing and mailing proxy material relating to only a particular class and any other incremental expenses subsequently identified that should be properly allocated to one class of Units which will be approved by the SEC pursuant to an amended order;

   b) the fact that the classes will vote separately with respect to the Fund's Administrative Plan and Service Plan;

   c) the different exchange privileges of the classes of Units; and

   d) the designation of each class of Units of the Fund.

2. The Trustees of the Fund, including a majority of the independent Trustees, will approve the offering of different classes of Units (the "Multi-Class System"). The minutes of the meetings of the Trustees of the Fund regarding the deliberations of the Trustees with respect to the approvals necessary to implement the Multi-Class System will reflect in detail the reasons for the Trustees' determination that the proposed Multi-Class System is in the best interests of both the Fund and its unitholders and such minutes will be available for inspection by the SEC and will be preserved for a period of not less than six years, the first two years in an easily accessible place.

3. On an ongoing basis, the Trustees, pursuant to their fiduciary responsibilities under the 1940 Act and otherwise, will monitor the Fund for the existence of any material conflicts among the interests of the various classes of Units. The Trustees, including a majority of the independent Trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. Goldman Sachs will be responsible for reporting any potential or existing conflicts to the Trustees. In addition, Goldman Sachs will take the actions necessary to ensure that the Service Organizations will report any potential or existing conflicts to the Trustees. If a conflict arises, Goldman Sachs, at its own cost, will remedy such conflict with an appropriate remedy, up to and including establishing a new registered management investment company.

4. The Service Plans will be reviewed and approved annually by the Fund's Trustees in accordance with the requirements and procedures set forth in Rule 12b-1, both currently and as that rule may be amended in the future. In addition, the Service Plans will be submitted to the public unitholders of the Service Units for approval at the next meeting of unitholders after the initial issuance of the Service Units. Such meetings must be held within one year from the date that Service Units are initially issued. Any other Portfolio created in the future and relying on the order granted on the application will hold a meeting of unitholders within one year of the first date that more than one class of Units is issued and outstanding and will submit its Service Plan for the separate approval of the public holders of each class of Units at such meeting; provided that the approval of a particular class of unitholders shall not be necessary if the existing Service Plan has already been submitted for the approval of the public unitholders of such class.

5. The Administration Plans will be adopted and operated in accordance with the procedures set forth in Rule 12b-1 (b) through (f) as if the expenditures made thereunder were subject to Rule 12b-1, except that unitholders need not enjoy the voting rights specified in Rule 12b-1. The Trustees will evaluate the Administration Plans, and such portions of the Service Plans which are required for the operation of the applicable classes, (c) the Service Organizations can provide services at a proportion as the vote of those Units held for its customers' benefit.

6. The Trustees will receive quarterly and annual statements concerning the amounts expended under the Administration Plans and Service Plans and the related Service Agreements with Goldman Sachs, at its own cost, will report any potential or existing conflicts to the Trustees. If a conflict arises, Goldman Sachs, at its own cost, will remedy such conflict with an appropriate remedy, up to and including establishing a new registered management investment company.

7. Any Service Agreement relating to a Portfolio shall provide that in the event an issue pertaining to a Plan is submitted for unitholder approval, the Service Organization shall vote any Units held for its customers' benefit.

8. The Trustees will receive quarterly and annual statements concerning the amounts expended under the Administration Plans and Service Plans and the related Service Agreements with Goldman Sachs, at its own cost, will report any potential or existing conflicts to the Trustees. If a conflict arises, Goldman Sachs, at its own cost, will remedy such conflict with an appropriate remedy, up to and including establishing a new registered management investment company.

9. Dividends paid by the Fund with respect to a class of Units of a Portfolio will be calculated in the same manner, at the same time, on the same day, and will be in the same per unit amount as dividends paid by the Fund with respect to each other class of Units in the same Portfolio, except that Service Payments made by a class under its Plan and any Class Expenses will be borne exclusively by the affected class.

10. The methodology and procedures for calculating the net asset value and dividend/distributions of the various classes and the proper allocation of expenses among classes has been reviewed by an expert (the "Expert") who has rendered a report to the Applicants, which has been provided to the staff of the SEC, such methodology and procedures are adequate to ensure that such calculations and allocations would be reasonable in the light of the usual and customary charges made by other entities, especially non-affiliated entities, for services of the same nature and quality.
made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Fund that the calculations and allocations are being made properly. The reports of the Expert will be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the 1940 Act and the work papers of the Expert with respect to such reports, following request by the Fund (which the Fund agrees to provide), will be available for inspection by the SEC staff upon written request by a senior member of the Division of Investment Management or a regional office of the SEC. Authorized staff members would be limited to the director, an associate director, the chief accountant, the chief financial analyst, an assistant director, and any regional administrators or associate and assistant administrators. The initial report of the Expert is a “Special Purpose” report on the “Design of a System” and on-going reports would be “Special Purpose” reports on the “Design of a System and Certain Compliance Tests” as defined and described in Statement of Auditing Standards No. 44 of the American Institute of Certified Public Accountants (“AICPA”), as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

11. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividend/distributions of the various classes of Units and the proper allocation of expenses among the classes of Units and this representation has been concurred with by the Expert in the initial report referred to in condition 10 above and will be concurred with by the Expert or an appropriate substitute Expert on an ongoing basis at least annually in the on-going reports referred to in that condition. Applicants will take immediate corrective action if the Expert, does not so concur in the on-going reports. 12. The prospectuses of each class of the Fund will include a statement to the effect that any person entitled to receive any portion of a Service Payment may receive different compensation with respect to one particular class of Units over another in the Fund. 13. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees with respect to the Multi-Class System will be set forth in guidelines to be furnished to the Trustees.

14. The Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of Units in every prospectus, regardless of whether all classes of Units are offered through each prospectus. The Fund will disclose the respective expenses and performance data applicable to all classes of Units in every shareholder report. To the extent that any advertisement or sales literature describes the expenses or performance data applicable to any class of Units, it will also disclose the respective expenses and/or performance data applicable to all classes of Units. The information provided by Applicants for publication in any newspaper or similar listing of the Fund’s net asset value or public offering price will present each class of Units separately.

15. Applicants acknowledge that the grant of the requested exemptive order does not imply Commission approval, authorization of, or acquiescence in, any particular level of payments that the Fund may make to Service Organizations pursuant to any Plan in reliance on the exemptive order. For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,
Secretary.

[F.R. Doc. 90-9009 Filed 4-17-90; 8:45 am]
BILLING CODE 8010-01-M

[Release No. IC-17404A; (812-7469)]

Smith Barney, Harris and Upham Inc.; Corrected Notice of Application and
Temporary Order
April 11, 1990.

AGENCY: Securities and Exchange
Commission (“SEC” or “Commission”).

ACTION: Temporary order and notice of
filing of application for permanent order of
exemption under the Investment
Company Act of 1940 (the “Act”).

APPLICANT: Smith Barney, Harris and
Upham Incorporated (“SBHU” or
“Applicant”).

RELEVANT SECTIONS: Permanent order
requested, and temporary order granted,
under section 9(c) of the Act granting
exemption from Section 9(a).

SUMMARY: SBHU has been granted a
temporary order, and has requested a
permanent order, exempting it from the
provisions of section 9(a) to relieve
SBHU from any ineligibility resulting
from the employment of three
individuals who are subject to
injunctions in Commission enforcement
actions (the “Subject Employees”).

FILING DATES: The application was filed
on January 30, 1990, and amended on
February 6, 1990, February 13, 1990, and
March 27, 1990.

HEARING OR NOTIFICATION OF HEARING:
A permanent order granting the
application will be issued unless the
SEC orders a hearing or extends the
temporary exemption. Interested
persons may request a hearing by
writing to the SEC’s Secretary and
serving Applicant with a copy of the
request, personally or by mail. Hearing
requests should be received by the SEC
by 5:30 p.m. on April 27, 1990, and
should be accompanied by proof of
service on the Applicant, in the form of
an affidavit or, for lawyers, a certificate
of service. Hearing requests should state
the nature of the writer’s interest, the
reason for the request, and the issues
contested. Persons may request
notification of the date of a hearing by
writing to the SEC’s Secretary.

ADDRESSES: Secretary, SEC, 150 Fifth
Street, NW., Washington, DC 20549;
Applicant, A. George Saks, Managing
Director and General Counsel, Smith
Barney, Harris Upham & Co., Inc., 1345
Avenue of the Americas, New York,
New York 10105.

FOR FURTHER INFORMATION CONTACT:
Thomas G. Sheehan, Staff Attorney,
(202) 272-7324 or Max Berueffy, Branch
Chief, (202) 272-3016 (Division of
Investment Management, Office of
Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The
following is a summary of the
application. The complete application
is available for a fee from either the SEC’s
Public Reference Branch in person or the
SEC’s commercial copier at (800) 231–
2362 (in Maryland (301) 258–4300).

Applicant’s Representations:
1. SBHU is a securities and investment
banking firm with over 100 domestic and
international branch offices. SBHU is
also an investment adviser registered
with the Commission. SBHU serves as
(a) investment adviser and principal
underwriter to Vantage Money Market
Funds, an open-end management
investment company which has
approximately $1.2 billion under
management in two portfolios; (b)
investment adviser to The Inefficient-
Market Fund, Inc., a closed-end
management investment company, with
approximately $44 million under
management; (c) sub-investment adviser to the following registered investment companies: Smith Barney Equity Funds, Inc.; Smith Barney Funds, Inc.; and Smith Barney Variable Account Funds (the "Smith Barney Funds"); (d) principal underwriter to the following registered open-end management investment companies with approximately $5.6 billion in assets: the Smith Barney Funds; National Liquid Reserves, Inc.; The Muni Bond Funds; and the Tax Free Money Fund, Inc.; and (e) a depositor and principal underwriter of numerous unit investment trusts.

2. Smith Barney, Inc. is the direct parent corporation of SBHU. Smith Barney, Inc. has other direct subsidiaries that are registered investment advisers to registered investment companies.

3. Primerica Corporation, a financial services and specialty retailing company whose shares are listed on the New York Stock Exchange, is SBHU's ultimate parent corporation. Primerica has other indirect subsidiaries which are broker-dealers as well as depositors of, and investment advisers to, registered investment companies.

4. Applicant currently employs three individuals subject to securities-related injunctions: Joseph S. Schreck, Joel L. Halpern, and John W. Kelsey.

5. Schreck is currently the manager of SBHU's Morristown, New Jersey branch office and has served in that capacity since joining SBHU in 1976. In April, 1983, Schreck entered into a consent injunction and agreement reached by the Commission alleging insider trading in violation of sections 10(b) and 14(e) of the Securities Exchange Act of 1934 and Rule 10b-5.

6. Kelsey is a registered representative in SBHU's Houston-Galleria branch office. He has been employed by SBHU since 1988. In December, 1989, Kelsey consented to the entry of a permanent injunction in a suit brought by the Commission alleging insider trading in violation of section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5.

7. Halpern is a registered representative in SBHU's Boca Raton, Florida branch office. He has been employed by SBHU since 1988. In November, 1972, Halpern was permanently enjoined in a suit brought by the Commission alleging net capital violations. As a result of the injunction, Halpern was barred by the Commission on April 28, 1975 from associating with a broker, dealer or investment adviser, with a right to reapply after two years.

8. The existence of the injunctions against the Subject Employees disables SBHU, under section 6(a)(3) of the Act, from acting as an investment adviser to a registered investment company, as a principal underwriter of a registered open-end investment company, or as a principal underwriter or depositor of a registered unit investment trust, unless an exemption is obtained pursuant to section 9(c).

9. Although SBHU has known of the existence of each of the injunctions for some time, it did not become aware of their significance under section 9(a) until recently. Until the week of January 29, 1990, SBHU did not have in place adequate compliance procedures to review for section 9(a) purposes the prospective or continued employment of any individual subject to an injunction or conviction.

10. Since the entry of their respective injunctions, none of the Subject Employees has been subject to any similar actions, or been enjoined by a court or sanctioned by the Commission, any self-regulatory organization, or any state securities commission. Senior members of SBHU's Compliance and Law Departments have reviewed each of the Subject Employees' records during the course of his employment with SBHU and found it to be satisfactory.

Except as set forth below with respect to Halpern, see ¶ 11, there have been no customer complaints against any of the Subject Employees since the injunctions were entered, nor, to SBHU's knowledge, is there any basis for such a complaint.

11. There have been two post-injunction customer complaints and one court action against Halpern relating to activities at a former firm, all involving allegations that Halpern recommended investments that were unsuitable for the customer. Both customer complaints remain unresolved. Halpern has not yet filed an answer in the state court action, which was filed in December, 1989. Halpern's former employer has informed SBHU that it supports Halpern in all three cases.

12. None of the Subject Employees is employed by any Smith Barney, Inc. affiliate other than SBHU, nor serves in any capacity related to the provision of investment advice to any registered investment company or to acting as principal underwriter or depositor to any registered open-end investment company, or as principal underwriter or depositor to any registered unit investment trust. None of the Subject Employees is an officer of SBHU or serves in a policy making role. None of the subject Employees has any relation to SBHU's management or administrative activities relating to registered investment companies.

13. The conduct that precipitated the injunctive actions against the Subject Employees was unrelated in any way to the provision of investment advice or the acting as depositor or underwriter for any investment company.

14. Schreck was employed by SBHU when the consent injunction was entered against him, and SBHU was fully aware of the proceeding against him at and of his consent to an injunction. Kelsey and Halpern fully disclosed the existence of the injunctions to SBHU prior to becoming employed by SBHU, and, through SBHU's compliance department, filed an application under section 19(h) of the Securities Exchange Act of 1934 to associate with SBHU as a registered representative. In each case, the New York Stock Exchange, SBHU's primary self-regulatory organization, authorized the association.

15. The Subject Employees have complied with the terms of the injunctions.

16. Pending disposition of SBHU's request for temporary relief, SBHU has required each of the Subject Employees to take a leave of absence with pay. If temporary relief is granted, SBHU will permit each to return to work on a normal basis pending determination as to permanent relief.

17. SBHU, together with its parent corporation Smith Barney, Inc., and all Smith Barney, Inc. subsidiaries, have not amended their compliance procedures to ensure that prospective employees subject to a statutory disqualification under section 9(a) are not employed by any Smith Barney Company involved in registered investment company activities as a principal underwriter, depositor or investment adviser, until all section 9(c) issues are resolved. These new procedures include immediate notification of the Law Department whenever a statutory disqualification is disclosed in an employment application for registered representatives, and background investigations for prospective employees who are not required to be registered.

18. After recognizing the significance of the injunctions under section 9(a), SBHU had the investment companies for which it serves as investment adviser cease accruing investment advisory fees for a total of three days, and, since that time, has had each registered investment company portfolio for which it is either the investment adviser or sub-adviser accrue such fees into various escrow accounts.

**Applicant's Legal Analysis:**

1. Each of the Subject Employees is ineligible to serve or act as an investment adviser, principal underwriter or depositor for a registered
investment company. Each of these individuals is an employee, and thus an “affiliated person” of SBHU. SBHU is a company any affiliated person of which is ineligible, by section 9(a)(2) of the Act, to serve or act in the capacities enumerated. As a result, section 9(a) would bar SBHU from acting in these capacities unless it obtains an exemption under section 9(c).

2. The prohibitions of section 9(a) are unduly or disproportionately severe as applied to SBHU, and the conduct of SBHU does not make it against the public interest or the protection of investors to grant the application.

3. The activities that gave rise to the injunctions are not sufficiently related to SBHU or to the investment companies for which SBHU acts as investment adviser, principal underwriter, or depositor. Furthermore, there is no basis to assert that the employment of the Subject Employees may affect SBHU’s performance of its responsibilities to any investment company.

4. Because the activities that gave rise to the injunction are remote in time and there has been no indication of subsequent wrongdoing, it would be unduly and disproportionately severe to permit the injunctions to interrupt the sound investment advisory, underwriting, and depositor services that have been made available to the shareholders of the investment companies which the Applicant serves.

5. A denial of the application would harm many of SBHU’s employees and shareholders, is not necessary for the protection of investors in the investment companies served by the Applicant, and is potentially a substantial detriment to the value of the shareholders’ investments. Neither SBHU nor any of the Subject Employees is the type of person with “unsavory records and few scruples” against whom section 9(a) is directed.

6. The balance of fairness requires that the application be granted. In particular, SBHU argues that if the exemption is not granted, it would be required to terminate the employment of the Subject Employees in order to continue the affected business. SBHU contends that such a result would be manifestly unfair since each of the Subject Employees has fulfilled the terms of his sanction, has committed no additional wrongdoing since the respective injunctions were entered, and has performed his duties satisfactorily over the years.

Conditions to the Requested Relief:

As conditions of the requested relief:

1. Applicant will continue to escrow all investment advisory fees until the Commission acts on SBHU’s request for a permanent exemption. Amounts paid into the escrow accounts will be disbursed to the investment companies or to SBHU upon resolution of this Application and discussion with the investment companies involved.

2. SBHU will not employ any of the Subject Employees in any capacity related directly to the provision of investment advisory services for registered investment companies or to acting as a principal underwriter for a registered open-end investment company or as a principal underwriter or depositor for a unit investment trust without first making further application to the Commission.

3. SBHU will take appropriate steps to confirm that there are no other employees subject to a Statutory Disqualification. These steps may include reviewing the personnel files of other employees, requesting employees to confirm that they are not subject to a Statutory Disqualification, or utilizing some other combination of procedures that may vary depending on the level and type of employee. SBHU will notify the Commission in writing when these steps have been completed.

4. SBHU will file as an exhibit to this application a representation, attested to by its General Counsel and/or Chief Executive Officer, on behalf of him or herself and SBHU, stating that he or she has reviewed the compliance procedures described in the application, that those procedures have been fully implemented, and that they are reasonable and appropriate to prevent persons subject to a Statutory Disqualification from becoming affiliated with SBHU in the future.

Temporary Order

The Commission has considered the matter and finds, under the standards of section 9(c), that Applicant has made the necessary showing to justify granting a temporary exemption. Our decision to grant the requested relief is based primarily on two factors. First, the individuals creating the statutory disqualification have not been, and (without further Commission action) will not be, engaged in investment adviser or investment company activities. Second, SBHU has represented that it is correcting the deficiencies in its compliance procedures that allowed these violations of section 9(a) to occur. It is also relevant to our determination that each of these employees fully disclosed the existence of the injunctions to SBHU on a timely basis, and was authorized by action of the New York Stock Exchange, SBHU’s primary self-regulatory organization, to associate with SBHU as a registered representative. The Commission’s decision to allow SBHU to continue to employ these individuals in non-investment adviser, non-investment company activities is thus consistent with the actions of the self-regulatory organization.

Although the Commission has determined to grant temporary relief, we must express our great concern with SBHU’s compliance system, which allowed multiple violations of section 9(a) to go undetected for an extended time period. We also take issue with SBHU’s disregard for the seriousness of the violations that created the section 9(a) disability. In particular, we strongly disagree with SBHU’s contention that the Subject Employees are not the types of people against whom section 9(a) is directed. To the contrary, the violations some of these individuals have committed, insider trading and other fraudulent activity, are precisely the types of violations that prompted Congress to enact the section 9(a) bar. Accordingly, our decision to grant relief in this case should not be read as an indication that the Commission views violations of section 9(a) as unimportant, or that we would regard any repeat of this problem at SBHU with anything other than the most serious concern.

Accordingly, it is ordered, under section 9(c) of the 1940 Act, that Applicant is hereby temporarily exempted from the provisions of section 9(a) until the earlier of July 1, 1990 or the date on which the Commission takes final action on the application for an order granting Applicant a permanent exemption from the provisions of section 9(a).

By the Commission.
Margaret McFarland, Deputy Secretary.

[FR Doc. 90-6285 Filed 4-17-90 8:45 am]
BILLING CODE 4101-01-M

DEPARTMENT OF STATE

The U.S. Organization for the International Telegraph and Telephone Consultative Committee CCITT Study Group; A Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on May 2, 1990 at 10 a.m. in room 1408, Department of State, 2201 C Street NW, Washington, DC.
Study Group A deals with international telecommunications policy and services.

The purpose of the meeting will include a debriefing of recent activities in the various working parties of CCITT Study Group III, and final preparations for the upcoming meeting of Study Group II. In addition, a schedule of tentative U.S. meetings will be established to prepare for the ongoing work in various Study Group meetings that take place in the fall of 1990, such as Study Group III and the ad hoc group for Resolution No. 18.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and individual building passes are required for each attendee. Entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should advise the office of Mr. Earl S. Barbelny, State Department, Washington, DC telephone (202) 647-5220. All attendees must use the C Street entrance to the building.


Earl S. Barbelny,
Director, Telecommunications and Information Standards; Chairman U.S. CCITT National Committee.

Office of the Secretary

Secretary of State’s Advisory Committee on Private International Law; Annual Meeting and Review of Developments in Private International Law

The Department of State announces that the Secretary of State’s Advisory Committee on Private International Law (ACPIL) will hold its annual meeting on Friday, May 4, 1990 from 9:30 a.m. to 4:30 p.m. in room 5951, Department of State, 21st Street NW, and Virginia Avenue, Washington, DC.

The meeting agenda will include a review of developments in the field of private international law, the status of conventions which the Department expects to submit for possible transmission to the Senate for advice and consent to ratification, the question of endorsement of the United Nations Convention on International Bills of Exchange and Promissory Notes, a review of Conventions on which work was recently completed by the Organization of American States, and a review of activities of the United Nations Commission on International Trade Law (UNCITRAL), the International Institute for the Unification of Private Law (UNIDROIT), and the Hague Conference on Private International Law.

Copies of documents relevant to the agenda may be obtained by contacting Harold S. Burman at (202) 653-9652 or by FAX at (202) 632-5283, or by writing the Office of the Assistant Legal Adviser for Private International Law, L/PIL, Suite 402, 2100 "K" Street NW., Washington, DC 20037-7180.

Attendees should use the entrance at 21st Street and Virginia Avenue, NW. for this meeting. Members of the general public may attend up to the capacity of the meeting room. As access to the building is controlled, the office indicated above should be notified not later than Tuesday, May 1st, of the name, affiliation, address and phone number of persons wishing to attend. In order to facilitate planning for the meeting, members of the public are requested to indicate whether they expect to comment on particular issues. Persons interested but unable to attend the meeting are welcome to submit comments or proposals to the address indicated above.


Peter H. Pfund,
Assistant Legal Adviser for Private International Law and Vice-Chairman, Secretary of State’s Advisory Committee on Private International Law.

DEPARTMENT OF TRANSPORTATION


AGENCY: Department of Transportation.


SUMMARY: U.S. air carriers can operate 400 to 450 one-way charter flights per year between the United States and Japan under the terms of a 1982 Interim Aviation Agreement and a 1989 Memorandum of Understanding. The precise number of charters available to U.S. carriers depends on the number of charters operated by Japanese carriers in the preceding year. Up to 300 of the charters may be operated between the United States and Tokyo/Osaka. The aeronautical authorities of each country allocate the charter flights among their carriers.

As we have done for the past three years, the Department has decided to institute an evidentiary proceeding before an Administrative Law Judge to determine how these flights should be allocated among U.S. carriers for the October 1, 1990-September 30, 1991 period and how many charters should be placed in a first-come, first-served pool for ad hoc charters during the same period. The proceeding will also examine the appropriateness of the existing forfeiture and reallocation procedures for flights returned during the charter year. The Department is inviting interested direct air carriers to file applications to operate the Japan charters at issue.

DATES: Applications (including service proposals and supporting information), petitions for reconsideration of Order 90-4-23 are due April 27, 1990; answers and any requests for an oral evidentiary hearing shall be due May 2, 1990.

ADDRESSES: Applications, supporting information, petitions for leave to intervene, petitions for reconsideration and requests for an oral evidentiary hearing should be filed in Docket 46898. addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street SW., room 4107, Washington, DC 20590, and should also be served on the Office of Hearings, room 9228, the Licensing Division, room 6412, and Mr. Robert Seldner, room 9626, at the same address.


Patrick V. Murphy, Jr.,
Deputy Assistant Secretary for Policy and International Affairs.

Federal Aviation Administration

Advisory Circular; Proposed Change 1 to Advisory Circular 23.1419-1, Certification of Part 23 Airplanes for Flight in Icing Conditions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Availability of proposed advisory circular (AC) change and request for comments.

SUMMARY: This notice announces the availability of and request for comments on proposed change 1, AC 23.1419-1, which is a revision to AC 23.1419-1 dated 9/2/86. The proposed change contains guidance material for demonstrating compliance with part 23 of the Federal Aviation Regulations (FAR). AC 23.1419-1 has been changed.

BILLING CODE 4910-05-M
to include new material for commuter category airplanes, which have takeoff and landing weight limits based on enroute and approach climb capabilities, and other changes.

**DATE:** Comments must be received on or before June 18, 1990.

**ADDRESS:** Send all comments on the proposed AC to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE–110), 601, East 12th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:** Frank Stogdill, Aerospace Engineer and Pilot, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 426-6941 or FTS 807–6941.

**SUPPLEMENTARY INFORMATION:** Any person may obtain a copy of this proposed AC by writing to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

**COMMENTS INVITED:** Interested parties are invited to submit comments on the proposed AC. Commenters must identify change 1, AC 23.1419–1, and submit comments to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before issuing the final AC. The proposed AC and comments received may be inspected at the Standards Office (ACE–110), Room 1544, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

Issued in Kansas City, Missouri, April 4, 1990.

J. Robert Ball,
Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–8956 Filed 4–13–90; 8:45 am]

**BILLING CODE 4910–13–M**

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**Notice to Hold a Public Scoping Meeting**

**SUMMARY:** The Federal Aviation Administration (FAA) is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared and considered as part of the site selection and master planning of a commercial air carrier airport in the Northeastern Illinois-Northwestern Indiana region. To ensure that all significant issues related to the proposed action are identified, public scoping meetings will be held on Wednesday, May 16, 1990 pertaining to site selection for this airport.

**FOR FURTHER INFORMATION CONTACT:** Jerry R. Mork, Community Planner, of the Chicago Airports District Office of the FAA at (312) 694–7522. Additional information is available from Donald Corinna, Program Manager for the Illinois-Indiana Regional Airport, Suite 111, 4440 West Lincoln Highway, Matteson, Illinois 60443, at (708) 503–0180.

**SUPPLEMENTARY INFORMATION:** The FAA, in cooperation with the Division of Aeronautics, Illinois Department of Transportation and the Division of Aeronautics, Indiana Department of Transportation, will prepare an Environmental Impact Statement as part of the site selection process. Should a “build” alternative be selected in the site selection process, a second scoping meeting will be held at that time to address the significant environmental impacts of building an airport at the selected site. As part of the master planning process, should a “build” alternative be selected, a draft environmental impact statement will be prepared and circulated after the master plan scoping meetings. Several sites are identified at this time. The development of a new airport could include but not be limited to:

1. Land acquisition, including relocation assistance.
2. Construction of multiple runways and taxiways.
3. Construction of an airport terminal and related facilities.
4. Construction of access roads and improvements to existing highway networks.
5. Construction of commuter rail lines to the new airport.

A more detailed list of development activities will be presented at the master plan scoping meeting. Comments and suggestions are invited from Federal, State and local agencies, and other interested parties to ensure that the full range of issues related to this proposed project are addressed and all significant issues relative to site selection are identified at this time.

Copies of materials to be evaluated can be obtained from the Office of the Program Manager for the Illinois-Indiana Regional Airport contact listed above. Comments and suggestions may be mailed to the same address.

**Public Scoping Meetings:** To facilitate receipt of comments at this state of the process, two site selection public scoping meetings will be held on Wednesday, May 16, 1990. They will be held at Governors State University, University Park, Illinois. The first meeting will be held at 10:00 AM CDT for Federal and State agencies, and another at 6:00 PM CDT for local agencies and other interested parties.

Issued in Des Plaines, Illinois, on April 9, 1990.

W. Robert Billingsley,
Acting Manager, Airports Division, FAA Great Lakes Region.

[FR Doc. 90–8956 Filed 4–13–90; 11:32 am]

**BILLING CODE 4910–13–M**

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**Informal Airspace Meetings: New Hampshire**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** The FAA is proposing an Airport Radar Service Area (ARSA) for Manchester, NH. An informal airspace meeting has been scheduled to provide the opportunity to gather additional facts relevant to the aeronautical effects of the proposal, and provide interested persons an opportunity to discuss objections to the proposal. All comments received from these meetings will be considered prior to the issuance of a Notice of Proposed Rulemaking (NPRM).

**DATES:** July 11, 1990.

**TIME:** 6:30 p.m.

**LOCATION:** Sheraton Tara Wayfarer Inn, Pavilion Room, 125 So. River Road, Bedford, NH 03102.

**POINT OF CONTACT:** Send or deliver comments by August 15, 1990 to: Federal Aviation Administration, Air Traffic Division, ANE–530, 12 New England Executive Park, Burlington, MA 01803.

**FOR FURTHER INFORMATION CONTACT:** Eileen Seaman, Air Traffic Division, ANE–533, (617) 273–7132.

**SUPPLEMENTARY INFORMATION:**

**Meeting Procedures**

(a) The meeting will be informal in nature and will be conducted by a representative of the FAA New England
Region. Representatives from the FAA will present a formal briefing on problems and proposals for change that have been received from the public. All other participants will be given an opportunity to make a presentation.

(b) Any person wishing to make a presentation to the FAA Team will be asked to sign in and estimate the amount of time needed for such a presentation. This will permit the Team to allocate an appropriate amount of time for each presenter. The Team may allocate the time available for each presentation in order to accommodate all speakers. The meeting will not be adjourned until everyone on the list has had an opportunity to address the panel.

The meeting may be adjourned at any time if all persons present have had the opportunity to speak.

(c) Any person who wishes to present a position paper to the Team, pertinent to the topic of the Manchester ARSA, may do so. Persons wishing to hand out pertinent position papers to the attendees should present two copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(d) The meeting will not be formally recorded, however, informal tape recordings may be made of presentations to ensure that each respondent's comments are noted accurately. A summary of the comments at the meeting will be made available to all interested parties.

Materials relating to the proposed Bangor, ME ARSA will be accepted at the meeting. Every reasonable effort will be made to hear every request for presentation consistent with a reasonable closing time for the meeting. Written materials may also be submitted to the Team until August 13, 1990.

**Agenda**

- Opening Remarks and Discussions of Meeting Procedures.
- Briefing on Identified Problems and Change Proposals.
- Public Presentations.
- Closing Comments.

Issued in Burlington, MA on April 6, 1990.

James I. Lucas,
Manager, Air Traffic Division, ANE-300.

[
FR Doc. 90–8978 Filed 4–17–90; 8:45 am
BILLING CODE 4910–13–M
]

**DEPARTMENT OF THE TREASURY**

**Public Information Collection Requirements Submitted to OMB for Review.**

April 12, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980. Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2224, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

**Internal Revenue Service**

OMB Number: 1545–0575.

Form Number: 5330.

Type of Review: Revision.

Title: Return of Excise Taxes Related to Employee Benefit Plans.

Description: Code sections 4971, 4972, 4973(a), 4976, 4977, 4978, 4978A, 4978B, 4979, 4979A, and 4980 impose various excise taxes in connection with employee benefit plans. Form 5330 is used to compute and collect these taxes.

Respondents: Individuals or households, Businesses or other for-profit.

Estimated Number of Respondents: 20,000.

Estimated Burden Hours Per Response: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 10,110 hours.

**Clearance Officer:** Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**OMB Reviewer:** Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.

[FR Doc. 90–8978 Filed 4–17–90; 8:45 am]
BILLING CODE 4820–01–M

**Public Information Collection Requirements Submitted to OMB for Review**

Date: April 12, 1990.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2224, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

**U.S. Customs Service**

OMB Number: 1515–0049.

Form Number: 7533.

Type of Review: Extension.

Title: Inward Cargo Manifest for Vessel Under Five Tons, Ferry, Train, Car, Vehicle, etc.

Description: Vessels under five tons and any vehicle carrying merchandise and arriving from a contiguous country must report their arrival in the United States and produce a manifest on CF 7533 listing the merchandise being conveyed.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 20,000.

Estimated Burden Hours Per Response: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 41,650 hours.

**Clearance Officer:** Dennis Dore (202) 535–9267, U.S. Customs Service, Paperwork Management Branch, room 6316, 1301 Constitution Avenue NW., Washington, DC 20229.

**OMB Reviewer:** Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.

[FR Doc. 90–8978 Filed 4–17–90; 8:45 am]
BILLING CODE 4820–01–M

**Bureau of Alcohol, Tobacco and Firearms**

**Granting of Relief, Federal Firearms Privileges**

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF).
ACTION: Notice of granting of restoration of federal firearms privileges.

SUMMARY: The persons named in this notice have been granted restoration of their federal firearms privileges. As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.


SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 921 (c), the persons named in this notice have been granted restoration of federal firearms privileges with respect to the acquisition, transfer, receipt, shipment, or possession of firearms. These privileges were lost by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year or because they otherwise fell within a category of persons prohibited by federal law from acquiring, transferring, receiving, shipping or possessing firearms. It has been established to the Director's satisfaction that the circumstances regarding the applicants' disabilities and each applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the restoration will not be contrary to the public interest.

The following persons have been granted restoration:

- Cogle, Dorns H., 6430 Southbridge Circle, Horn Lake, Mississippi, convicted on May 31, 1979, in the United States District Court, Western District of Tennessee.
- Cogle, Gilbert L., Jr., 6430 Southbridge Circle, Horn Lake, Mississippi, convicted on March 8, 1971, in the Criminal Court, Shelby County, Tennessee; on May 31, 1979, and April 11, 1980, in the United States District Court, Western District of Tennessee.
- Cantrell, Douglas William, 1315 East Ninth, Indianapolis, Indiana, convicted on June 24, 1983, in Marion County Criminal Court, Indianapolis, Indiana.
- Cogburn, trumpet, 322 Kelly Street, Harlan, Kentucky, convicted on March 29, 1982, in the Harlan County Court, Harlan, Kentucky.
- Jones, James Allen, 9067 Southwest Coquille Drive, Taualatin, Oregon, convicted on November 25, 1985, in the United States District Court, Portland, Oregon.
- Jungwirth, Joseph, 506 Ceape Street, Oshkosh, Wisconsin, convicted on September 7, 1984, in the Winnebago County Court, Oshkosh, Wisconsin.
- Keller, Frankie Lee, 2103 South County Road, Apartment 1130, Midland, Texas, convicted on July 20, 1983, in the United States District Court, Western District of Texas.
- Kolesar, Gene H., Century Village Apartments, Apartment E, Post Office Box 226, Airport Road, Lewishburg, Pennsylvania, convicted on March 17, 1982, in the Criminal Court Division, Court of Common Pleas, Northumberland County, Sunbury, Pennsylvania.
- Lavender, Billy Gene, 2812 Erwin, Nederland, Texas, convicted on May 20, 1982, in the United States District Court, Western District of Louisiana, Lake Charles, Louisiana.
- Maguire, Dominic, 150-05 Jewel Avenue, Flushing, New York, convicted on December 14, 1973, in the Circuit Court, Norfolk, Virginia.
- May, John, 9625 Division, Richmond, Michigan, convicted on April 29, 1983, in the United States District Court, Eastern District of Michigan.
- McDermott, John David, 914 State Street, Fenton, Michigan, convicted on September 8, 1981, in the United States District Court, Flint, Michigan.
Moore, John James, 1110 Big Thompson Canyon, Apartment 4, Loveland, Colorado, convicted on November 11, 1965, in the Circuit Court, Branch I, Pond du Lac, Wisconsin.

Morris, Buford Wayne, Route 8, Box 216, Cottontale, Alabama, convicted on January 20, 1977, in the United States District Court, Birmingham, Alabama.

Neylon, Michael Patrick, 2708 East Park Lane, Erie, Pennsylvania, convicted on February 28, 1974, in the Erie County Court of Common Pleas, Erie County, Pennsylvania.

Norman, John Earl, 561 27th Street, Tuscaloosa, Alabama, convicted on September 24, 1984, in the Circuit Court of Tuscaloosa County, Tuscaloosa, Alabama.

Neylon, Michael Patrick, 2708 East Park Lane, Erie, Pennsylvania, convicted on February 28, 1974, in the Erie County Court of Common Pleas, Erie County, Pennsylvania.

O’Daniel, Hugh Allen, Route 1, Box 80, Loretto, Kentucky, convicted on September 16, 1982, in the United States District Court, Western Judicial District of Kentucky, Louisville, Kentucky.

Odoms, Larry Lavelle, 1008 Parallel, Milton-Freewater, Oregon, convicted on July 5, 1963, and January 21, 1974, in the Umatilla County Superior Court; on September 13, 1963, in the United States District Court, Portland, Oregon; and on February 3, 1970, in the United States District Court, District of Columbia.

Parker, David M., 211 East Fredrick, Prairie du Chien, Wisconsin, convicted on August 8, 1984, in the Crawford County Circuit Court, Prairie du Chien, Wisconsin.


Patterson, Stanley P., 7831 Highway 78 West, Eastaboga, Alabama, convicted on March 18, 1983, in the United States District Court, Northern District of Alabama, Birmingham, Alabama.

Peterson, Walter Harry, 1819 South Street, Duluth, Minnesota, convicted on June 10, 1941, in the District Court, Tenth Judicial District, Nauvoo County, Idaho, and on March 11, 1952, District Court, Sixth Judicial District, Poinsett County, Nevada.

Rezzaccheta, Pasquale, 720 and One Half Jefferson Street, Plattsville, Wisconsin, convicted on November 18, 1977, in the Grant County Circuit Court, Lancaster, Wisconsin.

Rittenhouse, Gary Lina, 3433 Linden, Indianapolis, Indiana, convicted on September 25, 1960, in the Marion County Criminal Court, Indianapolis, Indiana.

Robinson, Patrick Loring, 8333 Old Saint Augustine Road, Tallahassee, Florida, convicted on December 11, 1979, in the United States District Court, Valdosta, Georgia.

Rouiller, Jeffrey James, North 4484 Clear Lake Road, Medford, Wisconsin, convicted on March 14, 1965, in the Taylor County State Court, Taylor County, Wisconsin.

Roussel, Alan Duane, 520 North Pine, Moline, Kansas, convicted on June 24, 1983, in the United States District Court, Wichita, Kansas.

Search, Herman Samuel, 533 East Rockingham Road, Rockingham, North Carolina, convicted on August 8, 1954, in the Municipal Court, Boston, Massachusetts; on December 14, 1955, in the United States District Court, Rockingham, North Carolina; on January 8, 1956, in the United States District Court, Rockingham, North Carolina; on August 3, 1958, in the Superior Court, Rockingham, North Carolina; on August 3, 1958, in the Superior Court, Rockingham, North Carolina; on November 11, 1962, in the Superior Court, Guilford County, North Carolina; and on November 11, 1972, in the United States District Court, Durham, North Carolina.

Shuler, Donald D., Route 11, Box 80, Corbin, Kentucky, convicted on July 9, 1982, in the United States District Court, Lexington, Kentucky.


Still, David Howard, 7607 Decker Road, Orleans, Michigan, convicted on July 18, 1972, in the Ionia County District Court, Ionia, Michigan.

Still, James L., 2610 East Yellowstone, Owensboro, Kentucky, convicted on September 20, 1984, in the Sixth Judicial Court, Daviess Circuit Court, Owensboro, Kentucky.


Swain, Andy H., 709 Bodenhamer, El Dorado, Arkansas, convicted on June 24, 1985, in the United States District Court, Western District of Arkansas.

Tulip, James Henry, 18110 Fairfield, Detroit, Michigan, convicted on November 15, 1973, in the Ontario Provincial Court, Windsor County, Ontario, Canada.

Taylor, Terry Allen, 4003 Second Street, Milwaukee, Wisconsin, convicted on August 21, 1975, in the Racine County Court, Branch IV, Racine, Wisconsin.

Thomas, Carlton Earl, 221 Lake Road, Henryville, Indiana, convicted on March 7, 1975, in the Jefferson Circuit Court, Louisville, Kentucky.

Van Mellekom, Ronald Lery, 3315 Hidden Road, Bay City, Michigan, convicted on March 5, 1973; October 23, 1973 and March 11, 1974, in the Bay County Circuit Court, Bay County, Michigan.

Veness, Steven Allen, 2628 Arrowhead Street, Racine, Wisconsin, convicted on December 3, 1973, in the Milwaukee County Circuit Court, Milwaukee, Wisconsin.

Wochner, Jackie Eugene, 506 Bracken Creek Apartments, Augusta, Kentucky, convicted on November 29, 1982, in the Pendleton County Court, Falmouth, Kentucky.

Compliance With Executive Order 12291

It has been determined that this notice is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on 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.


Stephen E. Higgins, Director.

[FR Doc. 90-8744 Filed 4-17-90; 8:45 am]

BILLING CODE 4810-31-M
Sunshine Act Meetings

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).

FARM CREDIT ADMINISTRATION
Farm Credit Administration Board; Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on April 20, 1990, from 10 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board; (703) 883-4003; TDD (703) 883-4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. The matters to be considered at the meeting are:

Open Session
1. Approval of FCA Board Meeting Minutes;
2. Consenti Calendar;
3. Conditional preliminary approval of the reorganization of Central PCA and of the FLBA/PCA joint management agreement—St. Louis District;
4. Consideration of FCS Retirement Plan Changes;
4a. FCB of Louisville—Retirement and Thrift Plan Amendments
b. FCB of Baltimore—Retirement Plan and Executive Supplemental Retirement Program
c. FCB of St. Paul—Retirement Plan
d. FCB of St. Paul—1990 Financial Services Commission and Gainshare Plan

* Closed Session
5. FCS Association Matters;
6. Consideration of Compensation Requests; and
7. Examination and Enforcement Matters.


Curtis M. Anderson,
Secretary, Farm Credit Administration Board.

[FR Doc. 90-9061 Filed 4-13-90; 4:20 pm]
BILLING CODE 6705-01-63

NATIONAL CREDIT UNION ADMINISTRATION
Meeting

TIME AND DATE: 9:30 a.m., Monday, April 23, 1990.

PLACE: Filene Board Room, 7th Floor, 1776 G Street NW, Washington, DC 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
1. Approval of Minutes of Previous Closed Meetings.
2. Board Briefing. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 693-9000.

Becky Baker,
Secretary of the Board.

[FR Doc. 90-9061 Filed 4-16-90; 1:53 pm]
BILLING CODE 7535-01-M

NATIONAL CREDIT UNION ADMINISTRATION
Meeting

TIME AND DATE: 9:30 a.m., Thursday, April 26, 1990.


STATUS: Open.

MATTERS TO BE CONSIDERED:
1. Approval of Minutes of Previous Open Meeting.
2. Economic Commentary.
3. Central Liquidity Facility Report and Review of CLF Lending Rate.
6. Legislative Update.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682-9600.

Becky Baker,
Secretary of the Board.

[FR Doc. 90-9089 Filed 4-16-90; 1:52 pm]
BILLING CODE 7535-01-M

Federal Register
Vol. 55, No. 75
Wednesday, April 18, 1990

5. Midseason Budget Review. Closed pursuant to exemptions (2) and (9)(B).
6. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682-9600.

Becky Baker,
Secretary of the Board.

[FR Doc. 90-9088 Filed 4-16-90; 1:52 pm]
BILLING CODE 7535-01-M
Part II

Department of Housing and Urban Development

Office of Assistant Secretary for Public and Indian Housing

Lead-Based Paint; Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing; Notice
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Public and Indian Housing

[Dock No. N-90-2059; FR-2697-N-01]

Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing

AGENCY: Office of Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This Notice announces the issuance of Interim Guidelines providing information regarding the identification and abatement of lead-based paint in the Department of Housing and Urban Development’s Public and Indian Housing Programs. The Guidelines represent the first national compilation of technical protocols, practices, and procedures on testing, abatement, worker protection, clean-up, and disposal of lead-based paint in residential structures. These Guidelines particularly focus on the Comprehensive Improvement Assistance Program (CIAP) of Public and Indian Housing, a multi-billion dollar annual program which provides for needed physical and management improvements of existing Public and Indian Housing developments.

FOR FURTHER INFORMATION CONTACT: Janice Rattley, Director, Project Management Division, Office of Public and Indian Housing, (202) 755-1900, Room 4122, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. (This is not a toll-free telephone number.)

EFFECTIVE DATE: The effective date of these Guidelines is April 1, 1990. Information regarding timing and applicability of these Guidelines to CIAP projects in process and new applications for funding is set forth under Supplementary Information below. PHI Notice 90-7 (previously Notice 89-3), issued on February 7, 1990, is canceled as of April 1, 1990.


None of the funds provided in this Act or heretofore provided may be used to implement or enforce the regulations promulgated by the Department of Housing and Urban Development on June 6, 1988, with respect to the testing and abatement of lead-based paint in public housing until the Secretary develops comprehensive technical guidelines on reliable testing protocols, safe and effective abatement techniques, cleanup methods, and acceptable post-abatement lead dust levels.

In the Department of Housing and Urban Development-Independent Agencies Appropriations Act—1990 (Pub. L. 101-144, 103 Stat. 839, approved November 21, 1989), HUD was instructed to publish lead-based paint testing and abatement guidelines no later than April 1, 1990. The required Interim Guidelines are published following this Notice.

Thus, the June 6, 1988 regulations (53 FR 10790) will apply to Public and Indian Housing as of April 1, 1990, except that the requirement to test every unit at turnover, and the 100% testing requirement have been eliminated by the McKinney Act Amendments Act (section 1088(a)(3)). The same Act extended the five-year period for testing until December 6, 1994 (section 1088(d)(3)(B)). These provisions are self-executing and effective as of the date of the McKinney Act Amendments (November 7, 1988). A confirming regulation will be published shortly.

The effective date of these Guidelines is April 1, 1990 for any PHA family project constructed or substantially rehabilitated prior to 1978. PHAs that plan to advertise for bid or award a construction contract (including architectural and engineering (A&E) contracts) or plan to start force account work on or after April 1, 1990 are covered by the Guidelines. For PHAs that have awarded any construction contract (including A&E contracts) before April 1, 1990, these Guidelines are not applicable except that the PHA may be used in carrying out the provisions of the June 6, 1988 regulation (53 FR 10790), but revision of any such construction contract is not required and those construction contracts may continue as originally approved. For PHAs involved in force account work, where feasible, the recommendations outlined in the Guidelines should be incorporated into their rehabilitation plans. In any event, none of the procedures outlined in the Guidelines is mandatory except those which state statutory or regulatory requirements.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this Notice does not have a potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The function of this Notice is limited to publication of technical guidelines to assist local (and Indian) housing authorities in carrying out programs for the identification and abatement of lead-based paint hazards. The Guidelines are recommended protocols which will assist housing authorities in implementing the requirements of the Lead-Based Paint Poisoning Prevention Act and HUD’s implementing regulations.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this Notice do not have federalism implications and, thus, are not subject to review under the Order. This notice announces the issuance of technical Guidelines which are intended for use by public Housing Agencies, including Indian Housing Authorities. None of the procedures outlined in the Guidelines are mandatory except for cases in which the Guidelines cite statutory or regulatory requirements. Issuance of the Guidelines in no way change or affect existing Federal, State or local governmental relationships.

A Finding of No Significant Impact with respect to the environment has been made following an environmental assessment in accordance with HUD regulations in 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours (7:30 a.m. to 5:30 p.m.) in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.


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Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing

April 1, 1990

Office of Public and Indian Housing Department of Housing and Urban Development
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Chapter 1: Introduction
1.0 Purpose of the Guidelines

These interim Guidelines provide information on the need for and appropriate methods of identifying and abating lead-based paint (LBP) in the Department of Housing and Urban Development’s (HUD’s) Public and Indian Housing programs. It should be noted that these are interim Guidelines.
and are subject to change as new information becomes available. All requirements for Public Housing Authorities (PHAs) are considered to apply to Indian Housing Authorities (IHAs), except where specifically excluded by statute. Thus, these Guidelines apply to PHAs and IHAs inclusively.

These Guidelines have been prepared by a panel of distinguished experts in the field of LBP and are an outgrowth of the National Institute of Building Sciences (NIBS) effort, which developed the first draft of these guidelines under contract to HUD. These Guidelines represent the first national compilation of technical protocols, practices, and procedures on testing, abatement, worker protection, clean-up, and disposal of LBP in residential structures. These Guidelines should be used in conjunction with the requirements of any State or local codes and regulations which may apply to the specific project under consideration. Appendix 1, developed by the HUD Office of General Counsel, provides a compilation of State and local LBP codes and regulations. Since existing Federal, State and local codes and regulations vary widely, each housing agency must become familiar with the State or local code in its jurisdiction and determine whether that code is more stringent than Federal requirements. Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs) are required to adhere to the more stringent requirements. It is advisable for users of these Guidelines to determine if the information listed in Appendix 1 is current prior to undertaking a LBP testing or abatement program.

1.1 Statutory and Regulatory Requirements for Public and Indian Housing Authorities

In response to the 1989 HUD-Independent Agencies Appropriations Act the Department of Housing and Urban Development has developed comprehensive technical guidelines on testing abatement, cleanup and disposal of lead-based paint in public and Indian housing. Additionally, as directed by the 1990 HUD-Independent Agencies Appropriations Act, HUD is issuing these Guidelines on April 1, 1990. Section 305 of the Lead-Based Paint Poisoning Prevention Act (LBPPPA) requires Public Housing Agencies and Indian Housing Authorities to conduct a random sample of dwellings and common areas in all PHAs/IHAs where children live or are expected to live. That statute and HUD regulations for all HUD programs specify the use of an X-ray fluorescence analyzer (XRF), an on-site testing device, and denote a reading of 1.0 mg/cm² as a positive finding of lead-based paint. These guidelines use the XRF and the 1.0 mg/cm² standard, but also specify that where XRF readings are inconclusive, atomic absorption spectroscopic analysis (AAS) or other comparable testing technique will be used as a backup or confirmatory test. Alternatively, PHAs and IHAs are authorized to use AAS without using the on-site XRF. The use of AAS was authorized by the Housing and Community Development Act of 1987, (Pub. L. 100-242), however, these Guidelines, which apply only to the PIH program at this time, are the first general authorization of its use.

Standards for both on-site testing by XRF and for AAS testing are set forth in chapter 4 below. The level of hazard is determined as 1.0 mg/cm² or 0.5 percent by weight. The AAS standard of 0.5 percent by weight is used for the first time in these Guidelines, and represents a somewhat higher level of accuracy than can be achieved with on-site testing. The decision to use the 0.5 percent by weight measurement is based in substantial part on the recommendations of experts. While the Stewart B. McKinney Homeless Amendments Act of 1989 (Pub. L. 100-528, November 7, 1988) introduced the concept of PHAs and IHAs using a 0.06 percent by weight standard for testing and abatement, such a standard is not authorized by these Guidelines, and will not be implemented except by final rule, after full analysis as to whether testing and abatement to such a standard is scientifically and practically feasible.

The Stewart B. McKinney Homeless Amendments Act also amends the LBPPPA relevant to PHAs and IHAs as follows:

A. Elimination of the requirement to test and abate public housing units at turnover;

B. Elimination of the requirement for 100 percent testing;

C. Extension of the period for completion of testing for all public housing units until 1994;

These provisions are deemed to be effective as to PHAs and IHAs as of the November 7, 1986 date of the McKinney Amendments. Final regulations restating these statutory directives will be issued shortly.

The Guidelines should be used when a housing authority plans to or is engaged in LBP testing and abatement. The Guidelines will assist the housing authority in implementing the requirements of the LBPPPA and HUD’s implementing regulations. None of the procedures outlined in the Guidelines is mandatory except for cases in which the Guidelines cite statutory or regulatory requirements.

The information collection and recordkeeping requirements appearing in sections 4.3, 4.3.2 and 9.6 have been approved by the Office of Management and Budget and assigned control number 2577-0090. All other information collection and recordkeeping guidance in this document are simply recommendations, and are not required in order to be in full compliance with the Lead-Based Paint requirements.

1.2 Users of the Guidelines

These Guidelines are intended for use by Public Housing Agencies, including Indian Housing Authorities, and other participants involved in the maintenance and modernization of public housing projects which may contain LBP. These Guidelines are also issued as guidance for Public Housing Agencies participating in the Public Housing Lead-Based Paint Abatement Demonstration under section 302 (a)(2)(A) of the Lead-Based Paint Poisoning Prevention Act [42 U.S.C. 4822 (d)(2)(A)].

This document represents the initial version of the Guidelines and will be revised as experience and additional information is gained. Where uncertainties now exist, these Guidelines purposefully take a cautious, conservative, and protective approach, such with worker protection recommendations and final clearance levels. To develop information on the most cost-effective approaches to abating the LBP hazard, HUD is currently carrying out an extensive research and demonstration program addressing testing, abatement, worker protection, cleanup, and disposal issues. At the end of this program, HUD expects to revise the Guidelines to reflect new information available.

1.3 Background

1.3.1 The Health Hazard

Human beings are exposed to lead from numerous sources, such as paint pigments, automobile and industrial emissions, surface and ground water, and some forms of solder. While adults may suffer various ailments due to excessive lead in their blood, the groups most at risk from exposure to lead are fetuses, infants, and children under seven. Since the fetus is at risk from high blood lead levels in the mother, pregnant women and women of childbearing age also must be aware of the hazards of high blood lead levels.
Excessive blood-lead levels can seriously damage a child’s brain and central nervous system. Lead poisoning in children can cause attention span deficits, impaired hearing, reading and learning disabilities, delayed cognitive development, reduced IQ scores, mental retardation, seizures, convulsions, coma, and even death. In adults, high blood-lead levels may increase blood pressure and harm the heart.

The current Centers for Disease Control (CDC) criterion blood-lead level for children is 25 micrograms of lead per deciliter of blood (µg/dl); however, recent research has indicated that blood-lead levels as low as 10 to 15 micrograms per deciliter can cause adverse health effects in fetuses and children under 7 years of age. Blood lead levels in excess of 30 micrograms per deciliter are of concern for abatement workers and other adults, especially women of child-bearing age.

1.3.2 Lead-Based Paint in Housing

Lead was a major ingredient in many types of house paint for years prior to and through World War II. In the early 1950s, other pigment materials became much more popular, but lead compounds were still used in some pigments and in drying agents. Federal regulatory efforts began with the enactment of the LBP in 1971. In 1972, the Consumer Product Safety Commission (CPSC) established a maximum lead content in paint of 0.5 percent by weight in a dry film of paint newly applied; in 1978, CPSC lowered the allowable lead level in paint to 0.05 percent.

While other sources of lead, such as gasoline and water systems using lead pipes or lead-based solder in copper piping systems, have been significantly reduced in recent years, the LBP in older houses remains a significant problem. A recent report by the Agency for Toxic Substances and Disease Registry (ATSDR) estimates that some 42 million homes contain lead-based paint and house approximately 12 million children.

1.3.3 The Hazard of Lead Dust

In the 1970s, the principal hazard to children was thought to be paint chips containing lead, primarily from peeling paint. Research in the early 1980s showed, however, that lead dust is of special concern, in part because the smaller particles are more easily absorbed by the body, and in part because other common methods of paint removal, such as sanding, scraping, and burning, created excessive amounts of dust. Interior lead-based paint dust also can come from the normal abrasion of painted surfaces, such as the opening and closing of windows. Lead dust is especially hazardous to young children because they play on the floor and engage in a great deal of hand-to-mouth activity.

1.3.4 Lead Dust in Soil

Lead dust is also a problem from exterior paints; for many years, exterior paint films were designed to be “chalky,” or lose some of the surface paint due to rain and ultraviolet light, in order to keep the surface looking fresh. The lead pigment which washed off in this process accumulated in the soil around the house. Other sources of lead in soil include improperly performed exterior deleading work, gasoline exhausts washed out of the air, and some types of road dust. Lead-contaminated soil poses a hazard because children may play in or near it, and dirt tracked into a home can lead to increased lead dust levels in the home. These Guidelines do not directly address the issue of lead in soil; however, the Environmental Protection Agency (EPA) is currently carrying out a research and demonstration program to address the issue of estimating and controlling the potential hazard of lead in soil.

1.4 Federal Agencies Involved in LBP Activities

1.4.1 Department of Housing and Urban Development (HUD)

In 1973, amendments to the LBP designated HUD the lead agency in the Federal effort to eliminate the hazard of LBP. In the 1970s, HUD carried out an extensive research program with the National Bureau of Standards (now the National Institute of Standards and Technology); this work was followed in the early 1980s by the issuance of regulations addressing the LBP hazard in HUD associated housing. The Housing and Community Development Act of 1987 changed the definition of the LBP hazard to include exterior as well as interior intact and nonintact painted surfaces, called for a research and demonstration program, and mandated the complete inspection and abatement of all pre-1978 public housing family dwelling units. The Stewart B. McKinney Homeless Assistance Amendments Act of 1989 added additional requirements to the current HUD program.

1.4.2 Environmental Protection Agency (EPA)

As part of its responsibility for environmental protection, EPA has addressed issues of lead in gasoline, lead in industrial emissions, lead in water due to lead pipes and lead-based solder, lead in water treatment systems, and lead in soil. EPA also regulates the disposal of hazardous and toxic substances, which may include some LBP debris. EPA is assisting HUD in the current LBP research and demonstration program under a Memorandum of Understanding.

1.4.3 Department of Health and Human Services (HHS)

Several elements of HHS are involved in issues of lead poisoning in children. As noted above, ATSDR has published a major report to Congress in 1988, “The Nature and Extent of Lead Poisoning in Children in the United States.” The National Institute of Occupational Safety and Health (NIOSH) is carrying out studies of worker protection methods in conjunction with HUD’s demonstration program. Other elements of the Centers for Disease Control (CDC) are also involved. The Bureau of Maternal and Child Health and Resources Department provided Appendix 2, “Childhood Lead Poisoning Prevention Program.”

1.4.4 Department of Labor (DOL)

The Occupational Safety and Health Administration (OSHA) of DOL has established regulations governing lead-related occupations; while they do not pertain to construction workers, many of the OSHA regulations and various State regulations have been utilized in the development of these Guidelines. In particular, the respiratory protection provisions in chapter 8, “Worker Protection,” are based on OSHA regulations.

1.5 State Regulations

At least two States, Maryland and Massachusetts, have recently promulgated regulations covering LBP abatement. The Maryland regulations are in title 26, Department of the Environment, subtitle 02, August 1988. Also, LBP is addressed in the Maryland Occupational and Health Standard, Occupational Exposure to Lead in Construction, COMAR 09.12.32, January 16, 1994.

Massachusetts has two sets of regulations. One set, 454 CMR 2200 Dealing Regulations, provides information on the dealing process and on the certification and licensing of dealers. The second set of regulations, 105 CMR 480.00, addresses inspections and provides additional information on dealing methods, cleanup procedures and wipe testing. Many States have established environmental protection regulations based on EPA requirements.
which address hazardous and toxic waste handling.

1.6 Definition of the Lead-Based Paint Hazard

The action level for LBP established in the LBPRA amendments in the 1987 Housing Act is a lead content of 1.0 milligrams per centimeter squared (mg/cm²) as measured by an XRF analyzer. Some State and local regulations have set a lower level at 0.5 mg/cm². Since there is some concern about the reliability of XRF results at these levels, these Guidelines recommend back-up chemical testing utilizing AAS or inductively coupled plasma atomic emission spectrometry (ICP-AES). When using chemical testing, the action level is either 0.5 percent by weight or 1.0 mg/cm².

It should be noted that portable XRF analysis and laboratory testing may not provide directly comparable information: XRF results are calibrated to report mass of lead per unit area (area concentration) of a painted surface. AAS and ICP-AES, which report results in either mg/cm² or weight percent, are bulk sample analysis methods. Appendix 3 provides a discussion of the units and terms used in these guidelines.

1.7 Organization of the Guidelines

These Guidelines have been developed to guide the user through the process of determining whether LBP is present at levels of concern, and—if so—how to carry out an effective abatement program. The organization is as follows:

Chapter 2, Reducing the Risks of Lead-Based Paint Poisoning, presents a three-part strategy for reducing LBP poisoning risks: Screening, education, and setting priorities.

Chapter 3, Roles and Responsibilities in Testing for LBP, identifies the various people, organizations, and functions involved in the identification of LBP.

Chapter 4, Testing for LBP, discusses in detail how to determine whether LBP is present in a sufficient quantity to require abatement.

Chapter 5, Roles and Responsibilities in Abatement, identifies the Federal, State and local agencies and other participants involved in LBP abatement.

Chapter 6, Before You Abate Lead-Based Paint, describes the need for and structure of an Abatement Plan to be used when testing shows that LBP hazards are present. This is an essential step in the process.

Chapter 7, Choosing an Abatement Strategy, outlines the various alternative approaches to abatement, the advantages and disadvantages of each, and some of the issues which must be considered in this part of the process.

Chapter 8, Worker Protection, describes steps that should be taken to protect abatement workers and others who may be exposed to potential lead poisoning due to the abatement. This information is based on OSHA regulations and other documentation.

Chapter 9, Abating the Lead-Based Paint Hazard, sets out the specific activities that should be accomplished in an abatement project, and describes the approaches to use on various building elements.

Chapter 10, Cleanup, stresses the importance and methods for thoroughly cleaning the abated area. As noted earlier, lead-bearing dust can be a major hazard for the workers and for the family who will live in the abated unit; cleaning is a critical step in a successful abatement project.

Chapter 11, Waste Disposal, points out the importance of properly handling the debris generated by LBP abatement. Some of the debris may require handling as hazardous waste under Federal EPA and State or local environmental regulations.

Chapter 12, Single Unit Abatements: An EBL Child, discusses abatement in units which house or will house a child identified as having an elevated blood lead level.

Technical Appendices, provide additional technical details for supervisors, managers, and designers.

Chapter 2: Reducing the Risks of Lead-Based Paint Poisoning

2.0 Introduction

Abatement is an extremely important strategy for reducing the risks of lead poisoning from exposure to lead-based paint, but abatement as part of modernization is only one element of a broader strategy by PHAs to protect residents from lead-based paint poisoning. PHAs should consider a three-part strategy for reducing the risks of lead-based paint poisoning: encouragement of screening, resident education, and setting priorities for abatement.

2.1 Encouraging Screening

Children may be lead poisoned without having specific symptoms. Most children have no symptoms, and when symptoms appear they are often similar to common childhood complaints such as headaches, irritability, tiredness, lack of appetite and stomach aches. Because these symptoms are not specific, parents and physicians may not suspect lead poisoning.

Because of the lack of symptoms, the only sure way to detect lead poisoning is with a blood screening test. In many areas, this test involves only a simple finger prick test. When this test indicates the potential for lead poisoning, or in areas where no initial screening is done, children will have to have blood drawn from a vein.

Both the Centers for Disease Control and the American Academy of Pediatrics recommend that children under seven years of age be screened for lead poisoning. Testing is often conducted between May and October, when blood lead levels tend to be higher. Younger children and children living in high risk areas (for example, older urban housing) will need to be tested more frequently, but all children under seven years of age should be tested. Children can often be tested at pediatricians’ offices, neighborhood health clinics or at screening centers operated by State, county or local lead poisoning prevention programs or health departments. A list of lead screening programs is contained in appendix 2.

PHAs should encourage parents to get pre-school children tested for lead. This can be done with written materials, as part of the broader resident education program discussed in section 2.2, or verbally at annual occupancy interviews or at tenant association meetings. PHAs may be able to facilitate testing by arranging to have screening conducted on the premises, in common areas or day care centers.

2.2 Resident Education

PHAs can further help tenants reduce the risks of lead-based paint by educating them about the dangers of lead and steps that can be taken to protect children. Many educational materials on lead poisoning have been developed. Two commonly used pamphlets are What Everyone Should Know about Lead Poisoning (available in Spanish and English from the Channing L. Bete Co., South Deerfield, Massachusetts) and Stop Lead Poisoning—A Sesame Street Guide to Prevention (National Safety Council brochure).

Appendix 2 contains a list of educational materials on lead poisoning available from State and local health departments. In evaluating materials, be sure to check the date of publication: much has been learned about lead poisoning in the past few years and materials that date back to the 1960s and 1970s may no longer be accurate.

Educational materials should cover topics such as sources of lead, screening and actions that parents can take to
protect children against lead poisoning. Protective actions include both reducing exposure to paint chips and lead dust and actions to improve a child's nutrition and thus reduce absorption of lead. Materials should be written so that they can easily be understood by the tenant population. In some cases, materials will have to be written in languages other than English.

If materials are not available or are too costly, PHAs may want to prepare one-page information sheets that can be copied and posted or distributed. See Figure 2.1 for a sample of such an information sheet. PHAs should ask the local health department or a pediatrician to review any materials that will be given to tenants.

Resident education in connection with abatement efforts is also important. When abatement is planned, as part of modernization or otherwise, all tenants should be told in advance exactly what is happening and why. Tenants whose units are affected, especially those who must be relocated, should be given additional information. Finally, after abatement, tenants should be notified that their unit has been abated and given information on how to continue to reduce risks (through proper maintenance and cleaning).

2.3 Setting Priorities for Abatement

No PHA can conduct lead abatement in all of its units containing lead-based paint at one time. Comprehensive modernization projects may extend over several years, so decisions must be made about the order in which units will be tested and abated. PHAs are required to incorporate testing for the presence of lead-based paint and abatement, where necessary, into their comprehensive plans for modernization. Failure to include LBP testing and abatement in conjunction with other modernization needs will inevitably result in loss of cost-effectiveness associated with CIAP. To consider modernization in isolation from LBP testing and abatement will result in duplication of efforts and excessive costs. In planning for and sequencing abatements for groups of units, PHAs should consider the levels of risk posed by different units or buildings.

The purpose of lead abatement is to prevent lead exposure to occupants or to diminish exposure if it has occurred. First priority must therefore be given to those dwellings which present the greatest risk for occupants. There are at least two ways to assess risks and set priorities for abatement. One is to look at a building or housing project solely in terms of housing factors, such as the condition of painted surfaces, the concentrations of lead in paint, and future modernization plans. Another is to look not only at housing factors but also at occupants. In either case, the purpose of these assessments is to determine a rational sequence in which to conduct abatements, based on factors associated with increased risk of lead exposure.

In order to evaluate how much of a risk is posed by the possible presence of lead paint in occupied units, PHAs can apply a hazard classification system. This section presents two such systems. The first system, Risk Assessment for Buildings and Projects, ranks the relative hazard posed by occupied units based only on factors that are not specific to particular tenants or families, such as:

- The age of dwelling,
- The condition of painted surfaces,
- The presence of children and certain types of households in the building or project,
- Previously reported cases of lead poisoning in the building or area.

The second system, Risk Assessment for Occupied Units, also considers factors specific to individual families living in specific units, such as:

- The presence and number of children in the unit,
- Family variables such as the age of the mother, and,
- Other risk factors such as the quality of the housekeeping.

Once these factors are determined, they are then used to evaluate the risk posed by either projects/buildings or individual units in order to set abatement priorities. The Lead Toxicity Risk Assessment Forms presented in the following pages provide two structured questionnaires that will assist in obtaining data needed to estimate the degree of risk posed by either a building/project or a given, occupied dwelling unit. Also included are instructions for the person performing either assessment.

Even if no risk assessment is used, a simple form of risk classification should be considered. Table 2.1 presents another way of summarizing the relative risk of lead toxicity posed by specific housing units, based on only four factors. This simplified hazard evaluation method does not provide as refined a method for evaluating relative risk to specific children and families, but it does allow the PHA to set priorities without the need for the more complicated risk assessment form. This simplified system can be modified for use in vacant units by using only factors such as the age and condition of the dwelling and data on reported cases of lead poisoning.
What you can do to protect your child against lead poisoning

This housing project may contain lead-based paint. Lead is dangerous, especially to children under 7 years of age and to pregnant women and their fetuses. Even low levels of lead can slow a child's normal development and cause learning and behavioral problems. You can help protect your child against lead poisoning by taking these steps:

Have your child tested for lead poisoning

☐ Children with lead poisoning may have no signs or symptoms. If they complain, it may be about general things such as headaches or stomach aches.

☐ Because there are no signs or symptoms, you must have your child tested for lead poisoning on a regular basis. Simple blood tests to detect lead poisoning are available from health departments, medical clinics, and many private doctors.

Help your child avoid lead in paint and dust

☐ Keep your children away from peeling paint. Notify the housing authority right away when paint begins to peel.

☐ Wet mop floors and clean window sills and other surfaces to remove dust that may contain lead, using a cleaner high in phosphates if possible. Do not use a conventional vacuum cleaner, which can spread the very small lead dust around the apartment, for cleaning window wells or sills. Other areas where there is a lot of dust should be cleaned with a wet mop and a high phosphate detergent before vacuuming.

☐ Wash children's hands before they eat.

☐ Wash objects that infants and children frequently put in their mouths.

Make sure your child eats properly

☐ Make sure your child eats at least three meals a day; children's stomachs absorb more lead when they are empty.

☐ Give your child foods rich in iron (lean meats, tuna, beans, eggs, greens), which help protect the body against lead.

☐ Give your child foods rich in calcium (milk, cheese), which help protect the child's bones against lead.

☐ Avoid giving your child fatty foods (fried foods, chips), which allow the body to absorb lead faster.

Figure 2.1 : Sample Educational Materials
<table>
<thead>
<tr>
<th>Risk</th>
<th>Age of dwelling</th>
<th>Condition of surfaces</th>
<th>Status of mother</th>
<th>Children under 7</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximal</td>
<td>before 1960</td>
<td>deteriorated</td>
<td>under 18 yrs, single</td>
<td>present</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Severe</td>
<td>before 1960</td>
<td>intact</td>
<td>under 18 yrs, single</td>
<td>present</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Moderate</td>
<td>before 1970</td>
<td>deteriorated</td>
<td></td>
<td>none</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Slight</td>
<td>before 1970</td>
<td>intact</td>
<td></td>
<td>none</td>
</tr>
</tbody>
</table>

BILLING CODE 4210-33-M
LEAD TOXICITY RISK ASSESSMENT: BUILDINGS AND PROJECTS (INDEPENDENT OF OCCUPANTS)

**NAME OF BUILDING/PROJECT**

**ADDRESS**

**CITY** ______________________ **STATE** __________ **ZIP** __________

**AGE OF BUILDING/PROJECT**
- BEFORE 1940 = 3
- 1940 - 1960 = 2
- 1961 - 1977 = 1

**EXTERIOR CONDITION**
- PEELING PAINT 0 1 2 3
- ROTTED, PAINTED WOOD 0 1 2 3
- BROKEN, PAINTED MASONRY 0 1 2 3

**INTERIOR CONDITION**
- PEELING PAINT ON WALLS 0 1 2 3
- BROKEN PLASTER ON WALLS 0 1 2 3
- WATER LEAKS 0 1 2 3
- PAINTED WINDOWS 0 1 2 3
- PAINTED WOODWORK 0 1 2 3

**REPORTED CASES OF LEAD POISONING**
- IN BUILDING = 3
- IN HOUSING PROJECT = 2
- IN NEIGHBORHOOD = 1

**DEMOGRAPHIC RISK FACTORS**
- SINGLE MOTHER HOUSEHOLDS 0 1 2 3
- UNITS WITH CHILDREN UNDER 7 0 1 2 3

**TOTAL SCORE (ADD ALL NUMBERS)**

**ESTIMATED RISK OF LEAD TOXICITY**
- LOW (TOTAL OF 0 - 6)
- MEDIUM (TOTAL OF 7 - 12)
- HIGH (TOTAL OF 13 OR MORE)

BILLING CODE 4210-33-C
Instructions for Use of the Lead Toxicity Risk Assessment for Buildings or Projects

General Instructions

Begin by filling in the top of the form for the building or project being assessed. As indicated below, some of the necessary information will have to come from the housing authority and possibly others, rather than from a site visit. The total score for each set of items should be written in the space on the right side of the page. When you have finished all of the items, the numbers on the right side of the page should be added up and the total filled in. This score may later be changed based on information you get from the housing authority or others (for example, on the reported cases of lead poisoning). Finally, you should figure out which risk category (high, medium or low) the total score falls within and put a check on the correct line.

Age of Dwelling

This information should be obtained from the public housing authority before the site visit.

Exterior Condition

For these items you are to look at all sides of the outside of the building(s) and award points on a scale of zero (0) to three (3). You must use your judgment, but try to be consistent among buildings. As a guide, use the following rules:

- 0 = no visible problems or defects.
- 1 = a few problem areas, limited in size.
- 2 = either many problem areas or several large problem areas.
- 3 = problem areas are large and in many places.

Interior Condition

For these items you are to look at all of the rooms in a random sample of units and award points on a scale of zero (0) to three (3). You must use your judgment, but try to be consistent among buildings. For the first three items, use the rules given above under "Exterior Condition." For "painted Windows" and "painted Woodwork" use the following rules:

- 0 = no painted windows/woodwork in any unit (woodwork is cabinets, baseboards, moldings, door frames or other woodwork that is not even with the wall surface).
- 1 = all paint on windows/woodwork is intact in all units.
- 2 = some paint on windows/woodwork is peeling or broken in some units or large amounts of paint on windows or woodwork is peeling or broken in a few units.
- 3 = large amounts of paint on windows/woodwork is peeling or broken in many units.

Reported Cases of Lead Poisoning

This information can be obtained from the housing authority or the city, county or state health department before the site visit.

Demographic Risk Factors

This information should be obtained from the public housing authority before the site visit. Obtain data on the fraction of units in the building or project that are (1) headed by single mothers and (2) include children under the age of seven. Award points on a scale of 0 to 3 use the following rules:

- 0 = no units headed by single mothers/ include children under the age of seven.
- 1 = up to one-third of units headed by single mothers/ include children under the age of seven.
- 2 = between one-third and two-thirds of units headed by single mothers/ include children under the age of seven.
- 3 = over two-thirds of units headed by single mothers/ include children under the age of seven.
## LEAD TOXICITY RISK ASSESSMENT: OCCUPIED UNITS

**Project Name**

**Name of Head of Household**

**Address**

**City**

**State**

**Zip**

### Age of Dwelling

<table>
<thead>
<tr>
<th>Year Range</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Before 1940</td>
<td>3</td>
</tr>
<tr>
<td>1940 - 1960</td>
<td>2</td>
</tr>
<tr>
<td>1961 - 1977</td>
<td>1</td>
</tr>
</tbody>
</table>

### Exterior Condition

<table>
<thead>
<tr>
<th>Condition</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peeling Paint</td>
<td>0 1 2 3</td>
</tr>
<tr>
<td>Rotted, Painted Wood</td>
<td>0 1 2 3</td>
</tr>
<tr>
<td>Broken, Painted Masonry</td>
<td>0 1 2 3</td>
</tr>
</tbody>
</table>

### Interior Condition

<table>
<thead>
<tr>
<th>Condition</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peeling Paint on Walls</td>
<td>0 1 2 3</td>
</tr>
<tr>
<td>Broken Plaster on Walls</td>
<td>0 1 2 3</td>
</tr>
<tr>
<td>Water Leaks</td>
<td>0 1 2 3</td>
</tr>
<tr>
<td>Painted Windows</td>
<td>0 1 2 3</td>
</tr>
<tr>
<td>Painted Woodwork</td>
<td>0 1 2 3</td>
</tr>
</tbody>
</table>

### Family Variables

<table>
<thead>
<tr>
<th>Variable</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Mother</td>
<td>2</td>
</tr>
<tr>
<td>Mother Less Than 16 yrs</td>
<td>3</td>
</tr>
<tr>
<td>Mother 17 - 18 yrs</td>
<td>2</td>
</tr>
</tbody>
</table>

### Number of Children Under 3/Pregnant Women

<table>
<thead>
<tr>
<th>Number of Children</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>One (1)</td>
<td>1</td>
</tr>
<tr>
<td>Two (2)</td>
<td>1</td>
</tr>
<tr>
<td>Three (3)</td>
<td>2</td>
</tr>
<tr>
<td>More than three</td>
<td>3</td>
</tr>
</tbody>
</table>

### Number of Children Ages 4 - 6

<table>
<thead>
<tr>
<th>Number of Children</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>One (1)</td>
<td>1</td>
</tr>
<tr>
<td>Two (2)</td>
<td>1</td>
</tr>
<tr>
<td>Three (3)</td>
<td>2</td>
</tr>
<tr>
<td>More than three</td>
<td>3</td>
</tr>
</tbody>
</table>

### Reported Cases of Lead Poisoning

<table>
<thead>
<tr>
<th>Location</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>In Building</td>
<td>3</td>
</tr>
<tr>
<td>In Housing Complex</td>
<td>2</td>
</tr>
<tr>
<td>In Neighborhood</td>
<td>1</td>
</tr>
</tbody>
</table>

### Other Risk Factors

<table>
<thead>
<tr>
<th>Factor</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poor Housekeeping</td>
<td>0 1 2 3</td>
</tr>
<tr>
<td>Non-Resident Pre-School Children Spend Time in Unit</td>
<td>2</td>
</tr>
</tbody>
</table>

### Total Score (Add All Numbers)

**Estimated Risk of Lead Toxicity**

- Low (Total of 0 - 6)
- Medium (Total of 7 - 12)
- High (Total of 13 or More)

**Billing Code 4210-33-C**
Instructions for Use of the Lead Toxicity Risk Assessment for Occupied Units

General Instructions

You can get the information needed to fill in the top of the form either from the housing authority or from the person living in the unit. If this information is filled in before visiting the unit, check with the tenant to make sure it is correct. The total score for each set of items should be written in the space on the right side of the page. When you have finished all of the items, the numbers on the right side of the page should be added up and the total filled in. This score may later be changed based on information you get from the housing authority or others (for example, on the age of the dwelling or reported cases of lead poisoning). Finally, you should figure out which risk category (high, medium or low) the total score falls within and put a check on the correct line.

Age of Dwelling

This information should be obtained from the public housing authority before the site visit.

Exterior Condition

For these items you are to look at all sides of the outside of the building and award points on a scale of zero (0) to three (3). You must use your judgment, but try to be consistent among units. As a guide, use the following rules:

0: no visible problems or defects.
1: a few problem areas, limited in size.
2: either many or several large problem areas.
3: problem areas are large and in many places.

Interior Condition

For these items you are to look at all of the rooms in a unit and award points on a scale of zero (0) to three (3). You must use your judgment, but try to be consistent among units. For the first three items, use the rules given above under "Exterior Condition." For "Painted Windows" and "Painted Woodwork" use the following rules:

0: no painted windows/woodwork
1: windows are intact.
2: some paint on windows/woodwork is peeling or broken.
3: large amounts of paint on windows/woodwork is peeling or broken.

Family Variables

To fill in these items, you will have to ask the tenant. Information on whether the mother is single can also be obtained from the housing authority. If there are no children or pregnant women who live in the unit full time, the score is zero (0). A tenant should be considered a mother if she is pregnant, even if no other children live in the unit.

Number of Children/Pregnant Women

The two items on children and pregnant women apply only to children who live in the unit full time. There is an item listed under "Other Risk Factors" to address children who spend time in the apartment. A pregnant woman counts as one (1) child under three years of age.

Reported Cases of Lead Poisoning

You must try to get this information from both the tenant and the housing authority. If time allows, you should also call the city, county or state health department to see if they can give you this information.

Other Risk Factors

For the "Poor Housekeeping" item you are to look around all rooms in a unit and award points on a scale of zero (0) to three (3). You must use your judgment, but try to be consistent among units. As a guide, use the following rules:

0: unit is generally clean.
1: some dust is visible.
2: dust is seen in several places.
3: dust is seen throughout the unit.

You should ask the tenant about the "Non-Resident Pre-School Children Spend Time in Unit" item. If children under age seven spend a lot of time in the unit (about ten hours per week), the score is two (2); if not, the score is zero (0). As an example, you can ask the tenant if any tenant provides regular day care or after-school care for non-resident family members or other people's children in the apartment.

Chapter 3: Roles and Responsibilities in Testing for LBP

3.0 Introduction

Thorough and accurate testing is a key part of the effort to eliminate LBP hazards. This chapter identifies the participants who have roles and responsibilities in the identification of LBP hazards.

3.1 State and Local Requirements

State or local requirements must be followed if they are more stringent than the HUD requirements. Appendix 1 can be used to determine whether local regulatory levels are more stringent than the HUD requirements. For example, the State of Maryland requires abatement of lead-based paint if the concentration, as measured by portable XRF, exceeds 0.7 mg/cm². This is lower than the HUD standard of 1.0 mg/cm². However, the State of Massachusetts' Lead Paint Law requires abatement of LBP only if the concentration exceeds 1.2 mg/cm². The PHA may wish to contact the nearest Lead Poisoning Prevention Program (listed in appendix 2) for additional information.

State and local requirements may also differ from Federal requirements in the following areas:

A. Surfaces to Be Tested: Some States and localities do not require that intact surfaces, surfaces higher than five feet, or non-chewable surfaces be tested. Federal regulations require the testing of all intact and non-intact interior and exterior painted surfaces in all pre-1978 public housing family projects.

B. Testing Methods: Some States or localities allow for the use of testing methods not specified in the LBPPA. For example, Massachusetts' lead law allows testing of paint using a sodium sulfide solution. Federal regulations for all HUD associated housing, specifies the use of XRF analysis, atomic absorption spectroscopy, or a comparable approved testing method.

C. State and local regulations may specify priorities for inspection, such as:

1. When a tenant or property owner requests inspection of a dwelling that houses a child under the age of seven; and
2. When structures are to be used as a child care facility.

D. Training and Certification of Inspectors: Some States have regulations pending regarding certification or licensure, training requirements, and procedures for monitoring the quality of work of licensed lead inspectors. These State and local requirements will apply to all LBP inspectors including inspectors employed by public housing agencies, provided that they include the suggested criteria presented in Section 3.4 for lead inspectors.

3.2 Responsibility of HUD

As required by section 302 of the LBPPA, as amended, HUD will ensure that PHAs inspect dwelling units, common areas and exteriors for the presence of lead paint in or on public housing projects where children under age 7 live or are expected to live. Testing of these units is to be completed by 1994. HUD provides funding for testing for the presence of LBP under the
3.3 Responsibility of PHAs

The first priority in testing and abatement of LBP in all public housing projects must be given to structures housing elevated blood-lead level (EBL) children. Each EBL child’s unit and the common areas and exterior surfaces of the building in which the child lives must be tested and abated promptly if lead is found (See chapter 12). When no EBL children have been identified in the project, the PHA is responsible for selecting which units to test and making certain that testing is carried out according to an approved procedure. The PHA should require a standard reporting format to provide a summary of the presence of LBP in the project. The PHA should appoint a LBP project coordinator to organize all lead-based paint testing activities, including selecting a technical advisor, if needed, to assist the PHA in interpreting the testing results. Such a technical advisor should be a qualified inspector with no interest in the outcome of the testing results or a trained in-house employee. The PHA should ensure that the technical advisor meets the qualifications for the State or local area, or those suggested in § 3.4 for lead inspectors. The PHA should refer to the Comprehensive Improvement Assistance Program (CIAP) Handbook, 7485.1 REV-4, dated December 20, 1989, and the document entitled “Procedures on How to Integrate the Lead-Based Paint Procedures in the CIAP” for procedures for funding regarding testing for LBP. Chapter 4 will help the PHA develop a hazard identification plan which will contain the following elements:

• Determine which units should be tested;
• Determine which surfaces should be tested;
• Determine which testing techniques and methods should be used and the limitations of each;
• Determine whether a pattern of lead paint exists on specific building components;
• Understand the use of XRF instruments; and
• Quality assurance for all testing.

3.4 Role of the Lead Inspector or Testing Contractor

The responsibilities of the testing agency and contractors who conduct lead paint testing are to:

• Have a thorough knowledge of all relevant Federal, State, and local testing regulations;
• Demonstrate knowledge of the required or recommended methods of testing paint lead content;
• Obtain State certification and/or licensure where required;
• Accurately identify lead hazards on a property;
• Be trained in the use of portable XRF analyzers, and be able to recognize all possible sources of error;
• Recognize situations in which laboratory analysis of paint is necessary;
• Notify laboratories of paint samples to be submitted, and follow instructions for sample collection and submissions;
• Fully document in a clear and unambiguous manner, the results of the testing and the location of all samples;
• Notify appropriate officials or agencies of the test results; and
• Conduct testing in an honest and ethical manner.

To avoid potential conflict of interest, where practicable, a testing firm should not perform abatement on any projects it tests for LBP. It may be desirable for the testing contractor to provide other services, such as air monitoring during the abatement process and clearance testing after abatement.

3.5 Recommended Qualifications for Lead Inspectors

Trained inspectors are essential to the lead poisoning prevention effort. It is important to distinguish between XRF operators and lead inspectors. An XRF operator is trained in the use of a specific XRF analyzer, usually by the manufacturer of the instrument being used. An inspector has knowledge of the performance and limitations of many lead testing techniques and the methods used in their implementation, including XRF analyzers.

A trained lead inspector assesses the degree of the total lead hazard in housing, before, during, and after abatement. This person certifies the results of an inspection, both before and after abatement, in writing. PHAs are required to employ a qualified lead inspector.

Several States are considering requirements for training and certification of inspectors to meet this need. Inspectors should be proficient in all lead testing methods. At a minimum, it is recommended that inspectors meet the following qualifications:

• They should have received instruction on and demonstrated knowledge of:
  1. Federal, State, and local laws and regulations;
• 2. Use of portable XRF analyzers (including principles of operation, number of readings required, factors that affect the XRF reading, and interpretation of lead x-ray spectra);
• 3. Laboratory analysis techniques (methods, limitations, and when recommended);
• 4. Collection of air and wipe samples for laboratory analysis;
• 5. Conducting and documenting a complete inspection;
• 6. Safety requirements and precautions;
• 7. Performing visual inspections.

B. They should be able to perform mathematical calculations and make objective decisions.

C. They should have knowledge of construction materials.

Inspectors should periodically participate in workshops or seminars to stay abreast of new technology and methods of inspection.

Prerequisites for inspector training should include a high school diploma or equivalent, and exposure to mathematics and general science. A curriculum for lead inspectors may include the following topics:

• Lead Hazards
• Metric Units, Terms and Concepts
• Radiation Safety for XRF Use
• XRF Principles
• Calibration and Statistics
• Field LBP Surveys: XRF & Spot Testing
• Random Sample Selection
• Laboratory Techniques
• Paint and Dust Sampling Methods
• Air Monitoring: Sample Handling
• Clearance (Post-abatement) Testing
• Federal, State and Local Regulations

Training courses for inspectors should include an opportunity for observing and interpreting:

• XRF readings on various materials,
• Chemical tests on various substrates,
• Laboratory results, and
• Paint sampling methods.

Apprenticeship programs for lead inspectors are encouraged but should not be undertaken unless the programs are carried out by a lead inspector with substantial field experience and classroom instruction. Specific, logical steps must be taken by an inspector to confirm the presence of LBP. The rationale behind these steps must be clearly understood; if it is not, erroneous conclusions can be drawn regarding the extent of the lead hazard, with possible consequences ranging from unnecessary expense to lead poisoning of workers or occupants. The lead inspector must be an expert and a professional in the field.
An examination should be given to ensure that inspectors understand the material covered in the course. It is anticipated that States will recognize lead inspector training courses and provide certification for those who pass such a course.

3.8 Sources of Training for XRF Operators

Instruction on the use of the portable XRF analyzers should be obtained from the manufacturer of the instrument being used. It is strongly recommended that XRF operators attend lead inspection workshops or seminars to gain a better appreciation of their role in testing for lead hazard abatement.

Manufacturers of portable XRFs are:

- Princeton Gamma-Tech Inc., 1200 State Road, Princeton, NJ 08540, 609-924-7310.
- Scitex Corp., 1029 North Kellogg Street, Kennewick, WA 99336, 509-783-9850.
- Warrington Corp., 2205 West Braker Lane, Austin, TX 78758, 800-233-9491.

Chapter 4: Testing for Lead-Based Paint

4.0 Introduction

Under section 302 of the Lead-Based Paint Poisoning Prevention Act (LBPPPA), as amended, PHA’s are required, by 1994, to randomly inspect all their housing projects for lead-based paint (LBP). Under the statute, LBP hazards equal to or greater than 1.0 milligram per square centimeter (1.0 mg/cm²) must be abated. These guidelines also prescribe an abatement threshold of 0.5 percent by weight. In cases where State or local regulations are more stringent, they must be followed. For example, the State of Maryland requires abatement at a level of 0.7 mg/cm².

Two basic methods can be used to detect lead in paint in housing. The first is the use of a portable X-ray fluorescence (XRF) detector. This instrument X-rays the paint on the surface, causing lead in the paint, if present, to emit a characteristic frequency of radiation, the intensity of which is measured by the detector and related to the amount of lead in the paint. There are two types of XRF detectors available: direct readers and spectrum analyzers. "Direct reading" XRF’s provide the operator with a direct readout of lead concentration in the paint; "spectrum analyzer" XRF’s provide a complete radiation spectrum which is analyzed by the instrument’s software to improve the accuracy of the lead measurement. At the present time, there is only one manufacturer of the spectrum analyzer XRF. This instrument is more expensive than a direct reader and not yet widely available. This means that in the near term, “direct reading" XRF’s will in practice be used to conduct most of the XRF testing required of PHA’s under the LBPPPA. These two types of analyzers are discussed in detail in § 4.1. The second method of detection is laboratory analysis of a sample of the paint, using recognized, highly sophisticated, techniques such as Atomic Absorption Spectrometry (AAS) and Inductively Coupled Plasma—Atomic Emission Spectrometry (ICP–AES).

The preferred method for testing paint in housing is the portable XRF (referred to simply as “XRF” from now on), which is relatively inexpensive, provides rapid results, and, for many samples, does not require removal of paint from the surface. An inspector using a direct-reading XRF should be able to inspect a unit in 2 to 3 hours, measuring from 30 to 50 samples. With a spectrum analyzer, the work should go much faster because a single reading is usually sufficient, and corrections for substrate interferences are infrequent. However, the time required using either machine is dependent on various factors, such as the size of the unit, similarity in construction from unit to unit, etc. By contrast, laboratory testing is expensive, slow (results can take up to a month to come back from the laboratory), and always requires removal of paint. However, laboratory testing is much more accurate than the XRF if the samples are properly taken, and can play a crucial role in confirming inconclusive XRF measurements. It may also be used in circumstances where a measurement cannot be obtained by XRF, e.g., in an area which is inaccessible to an instrument. A third method, spot-testing using sodium sulfide, is only a qualitative method as presently implemented, and has not been adequately validated, although it is used in some States, notably Massachusetts. It is not recommended as a primary testing method. Current research to evaluate the performance of the sodium sulfide spot test on painted surfaces holds some promise for expanded use of the method in the future.

This chapter is divided into three main sections. Section 4.1 is devoted to field testing for LBP using portable XRF detectors (primarily the direct reading type). Detailed guidance is presented on selection of housing units, and locations within units, for testing, and on the interpretation of XRF testing results by the PHA. In many cases, XRF testing will permit a clear decision on the need for abatement of LBP on the various components within a housing project (doors, walls, windows, etc.). However, because XRF instruments are subject to large errors, the outcome of XRF testing will sometimes be inconclusive for one or more components in a project. In such cases, the PHA must conduct confirmatory testing of paint samples at a qualified laboratory. Section 4.2 contains a brief discussion of laboratory selection and testing for LBP. Section 4.3 is devoted to a discussion of documentation and reporting of the results of a testing program for LBP.

4.1 Field Testing For Lead-Based Paint Using the Portable XRF

4.1.1 Direct-Reading XRF’s

Direct reading XRF’s, the type currently in common use for LBP testing, display only a calculated lead concentration. Two different instruments are available: The XK-3, manufactured by Princeton Gamma-Tech, and the Microlead I, Revision 4, manufactured by Warrington Corporation. Addresses and telephone numbers for the manufacturers are given at the end of chapter 3.

This displayed lead reading when taken on a painted surface is called an apparent lead concentration (ALC). The reading is called an apparent concentration because the substrate and other factors may contribute to the ALC in a variety of ways. The inspector should compensate for this by measuring the contribution of the substrate to the XRF’s apparent lead readings. This substrate contribution is called the substrate equivalent lead (SEL) of the specific building component substrate. The average SEL is measured by removing the paint from the substrate and taking XRF readings on the substrate where the ALC was obtained. The corrected lead concentration (CLC) is the difference between the average ALC and the average SEL.

When an inspector performs testing in multi-family housing 2 or 3 units should be set aside to determine the SEL of specific components to be tested so that CLCs can be calculated for each sample taken. The CLC is the value used in determining whether a specific sample is positive, negative, or inconclusive as described below.

4.1.2 Spectrum Analyzers

The second type of XRF available for LBP testing is a spectrum analyzer. A spectrum analyzer is defined here as an XRF that can distinguish a lead X-ray from other, interfering radiation and display a graph of lead X-ray peak intensity relative to the intensity of
other interfering radiation. This graph, called an energy spectrum, can be stored for later analysis, analyzed by the instrument’s on-board computer or viewed by the operator when the sample is taken. One spectrum analyzer that is commercially available for LBP testing is the MAP analyzer (Scitec Corp., Kennexwick, WA). Other portable spectrum analyzers may become available in the future.

Spectrum analyzers are usually used in direct-reading mode, in which a lead concentration is calculated and displayed for the operator. Unlike the direct readers, however, a spectrum analyzer can resolve the lead X-ray intensity from interfering radiation. Thus, a skilled inspector can usually determine the contribution of substrate interferences without scraping the paint to obtain a reading directly on the substrate. Although a higher level of skill is required to operate a spectrum analyzer, the need to take only a single reading, coupled with avoiding scraping the paint except for unusual substrate combinations, makes for much faster (and more accurate) testing.

4.1.3 Sources and Types of Error in LBP Testing

There are two principal sources of error in testing for LBP. The first is sampling error, resulting from the fact that it is a practical and a financial impossibility to test every surface of every unit owned by a PHA. Instead, only a sample of units and surfaces within those units can practically be tested for LBP. This means that there is a chance that some lead contamination will be missed. However, a statistically valid sampling scheme, as described in this chapter, allows a PHA to reduce the chance of missing lead contamination to less than 5 percent.

The second source of error is measurement error. The measurement of lead levels in paint is not a simple process, and requires the use of sophisticated methods. A recent study of direct-reading XRF’s (McKnight, et al., 1989) by the National Institute of Standards and Technology (NIST) shows that the relative measurement error can be very large when the level of lead in the paint is close to the regulatory standard of 1.0 mg/cm². Some individual direct-reading instruments can be very precise yet very inaccurate. That is, repeated readings can be very close together, yet far from the true value, so that repeated measurements do not necessarily produce more accurate results. Usually, however, XRF error can be reduced by taking repeated measurements and averaging them, as described in detail in appendix 4. Nevertheless, the NIST study (McKnight et al., 1989) found that the error remaining after this averaging process can still be as large as 50%-60%. Thus, either false negatives (failure to detect lead contamination on a tested surface), or false positives (“finding” lead contamination when it is not really there), can easily result. The two error types have different practical consequences. A false negative results in the failure to abate a lead hazard (with the potential for poisoning a resident child), while a false positive results in unnecessary abatement.

An effective sampling scheme must be able to control both false negative and false positive errors, so that those components which require abatement are detected, while those that do not are eliminated from consideration. One way to achieve this goal is to conduct confirmatory laboratory analysis of the lead paint the XRF result is not definitive. However, this approach is likely to be extremely expensive in practice. In some cases, as many as 90% of the XRF results may require confirmation. This chapter describes a more cost-effective approach to testing multi-unit housing. Laboratory confirmation of an individual sample basis is not recommended except in scattered-site housing. For example, there is no need to confirm inconclusive XRF results obtained on some doors if a sufficient number of definitive positive results are obtained on other doors to indicate an LBP problem requiring abatement of doors. Section 4.1.6 presents decision rules to be used by a PHA to decide when to send samples to a laboratory for analysis.

4.1.4 Objectives and Assumptions in Testing Multi-Family Units

A PHA’s projects, and even different buildings within the same project, will generally differ in age and painting history. This is important because the older a building, the more likely it is to contain LBP. Therefore, separate decisions need to be made for buildings with different ages and histories. Beyond that, it is important to determine which building components (doors, windows, baseboards, etc.) have LBP, and which do not. This is critical to effective and economic planning of LBP abatement work, and to coordinating abatement with regular maintenance and modernization under the CIAP program.

The basic assumptions underlying the testing approach recommended here are that, first, a building was uniformly painted at the time of construction, and, second, that its subsequent painting history is random. The first assumption implies that, if LBP was used in the initial painting, it will be pervasive throughout the project, and will be fairly easy to detect. Even in this scenario, however, LBP will most likely be found on certain building components (e.g., steel window and door frames) or in certain rooms (e.g., kitchens and bathrooms). If LBP is present in a random way, due to repainting as residents move in, or to use of LBP at some point in a partial repainting of the building, it will be much more difficult to detect. In extreme cases, nothing short of 100% testing can assure detection of small amounts of random contamination. Since this is not practical, the general sampling scheme presented here concentrates on reducing the chance of missing random contamination to an acceptably low level. The scheme is expected to be very effective in detecting contamination caused by an initial complete painting of selected parts of the building with LBP.

The specific units to be tested must be chosen randomly from a list of all units in the building. If the PHA has knowledge that patterns of LBP may exist in buildings due to painting or construction history, or previous modernization work a consultant should be employed to tailor a sampling strategy which includes this knowledge. The general scheme for random sampling of units presented will identify obvious patterns.
The testing of painted and varnished surfaces in the sampled units, in common areas, and on building exteriors should be conducted by a qualified lead inspector. A comprehensive examination of the surfaces in a unit is required, with the objective of finding any and all LBP contamination above regulatory levels in the unit. Table 4.2 provides a list of typical components and surfaces that should be sampled. More detailed guidance is given in appendix 4. The inspector must exercise judgment, based on training and experience, to be sure no surfaces are missed. For example, parts of the same surface may have clearly different painting histories, or a large surface may be divided into subareas that should be sampled separately, e.g., a wall divided by a chair rail. Painting history determination can be made by using standard paint analyzing methods such as a Tookey Knife, Field Inspection Gauge, or similar tool. The sampling location on a surface must be randomly selected, but taking care to avoid pipes, electrical components, etc., which might interfere with an XRF reading.

### Table 4.1.6 Interpretation of XRF Sampling Data

<table>
<thead>
<tr>
<th>Building component</th>
<th>No. tested</th>
<th>No. positive</th>
<th>No. negative</th>
<th>No. inconclusive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baseboards</td>
<td>55</td>
<td>10</td>
<td>15</td>
<td>30</td>
</tr>
<tr>
<td>Steel windows</td>
<td>55</td>
<td>6</td>
<td>47</td>
<td>8</td>
</tr>
<tr>
<td>Wood windows</td>
<td>55</td>
<td>9</td>
<td>35</td>
<td>17</td>
</tr>
<tr>
<td>Steel doors</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

A separate report should be prepared for each building (or group of similar buildings) inspected, so that the PHA has the information necessary to make decisions on the need for abatement, laboratory confirmation, or further XRF testing for each part of the project. Some rules to aid the PHA in making these decisions are presented in the next section.

In addition to the summary report, the inspector is responsible for keeping detailed records of the inspection, describing all sampling locations and all XRF readings (ALCs, SELs, and CLCs) obtained, the type and condition of substrate and paint for each sample, and anything unusual about the testing conditions. Appendix 4 provides detailed procedures and sample forms for recording the results of the inspection. The more detailed records are needed for reference by the PHA during the decision process described next.

### 4.1.6 Interpretation of XRF Sampling Data

The PHA uses sampling data from XRF testing to decide, for each building component tested, whether to abate the components, test further, or confirm samples by laboratory analysis. The following decision rules should be adhered to by the PHA for results obtained using an XRF. Rules are given for both direct reading XRF and spectrum analyzer XRF instruments. All direct reading XRF results are reported in corrected lead concentration (CLC). All spectrum analyzer results are reported with substrate correction if needed.

**Rule 1:** If more than the percentage given below for a component are positive, lead is present, and either all such components should be abated, or all should be tested to determine which require abatement and which do not. If the testing option is chosen, all inconclusive results must be confirmed.

- Percentages: 15% of Direct Reading XRF results
- 11% of Spectrum Analyzer XRF results.

**Rule 2:** If no XRF results for a component are positive, and less than or equal to the percentage given below are inconclusive, no abatement of that component is required.

- Percentages: 17% of Direct Reading XRF results
- 0% of Spectrum Analyzer XRF results.

**Rule 3:** If some XRF results, in the percentages given below, are positive and inconclusive, confirmatory testing is required.
Percentages:

Direct Reading XRF: less than or equal to 15% positive or more than 17% inconclusive.

Spectrum Analyzer: less than or equal to 11% positive or more than 0% inconclusive.

All positive XRF results must be confirmed. All inconclusive readings above 1.0 mg/cm² must also be confirmed.

Rule 4: If confirmatory testing under Rule 3 confirms the presence of LBP above the regulatory level on a component, the PHA has the same options as under Rule 1: all components of the given type can be abated, or exhaustive testing of that component can be carried out to determine precisely which ones must be abated.

Figures 4.1 and 4.2 represent decisionmaking flowcharts based on the above four rules. Because HUD has very little data on the occurrence of lead-painted components and surfaces in housing, it is difficult to establish a procedure for using partial testing data to accurately predict occurrences of LBP on components and surfaces. These rules were derived by applying statistical methods to estimated distributions in an attempt to reduce the chance of either a false negative or a false positive to less than 1%. Because the assumptions used were quite conservative, there is only a small chance of missing lead on a component, and also only a small chance that unnecessary abatement will be carried out. Following these rules and associated Figures 4.1 and 4.2 flowcharts will also generally result in laboratory confirmation of far fewer samples than would be the case if all inconclusive XRF results were confirmed by a laboratory. This is because these rules require confirmation only when the overall result of XRF testing for a component is inconclusive.

Example: Consider the summary report presented as an example at the end of the last section. For baseboards, 10 out of 55 or 18% tested positive. Thus, either all baseboards should be abated, or exhaustive testing, including laboratory confirmation of all inconclusive corrected XRF results, should be carried out. For steel windows, 3 out of 55 or 5% were positive, and 17 out of 55 or 31% were inconclusive. Laboratory confirmation of the 3 positives is required, and confirmation of all inconclusives above 1.0 mg/cm² is required. The precise number is determined from the detailed inspection records. Finally, for walls, there were no positives and only 8 out of 55 or 15% inconclusive. It can reasonably be concluded that LBP is not present on walls above the 1.0 mg/cm² level.

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Figure 4.1 Flowchart of Decision Rules for Multi-Unit Testing with a Direct-Reading XRF
Figure 4.2 Flowchart of Decision Rules for Multi-Unit Testing with a Spectrum-Analyzer XRF
**4.1.7 Testing in Scattered Site Housing**

When regulatory compliance for LBP is to be determined for scattered site or single family housing, testing with a spectrum analyzer XRF, or laboratory analysis is recommended. Direct reading XRF is not recommended because it will likely lead to a great deal of laboratory confirmation.

If a direct-reading XRF is used, it is necessary to scrape the paint to determine an SEL for each different building component. This is because the variability of the direct reading XRF cannot be “averaged out” over a large number of samples as is the case in multi-family housing. The use of generic substrates is not recommended because so many varieties of material combinations are encountered in building components. The ALC and SEL should then be combined to provide a CLC. Alternately, the PHA can perform laboratory analyses for all surfaces where the ALC does not meet criteria A or B below. The following rules apply for abatement decisions when a direct-reading XRF is used and substrate correction is used rather than laboratory analysis:

- **A.** ALC results of greater than or equal to 3.0 mg/cm² taken on flat surfaces require abatement.
- **B.** ALC results of greater than or equal to 4.0 mg/cm² taken on non-flat, or curved surfaces or surfaces which are smaller than the sensitive area of the XRF used require abatement.
- **C.** CLC values greater than or equal to 1.0 mg/cm² require confirmatory testing.

**Confirmatory testing can be accomplished by submitting samples for laboratory analysis.**

If a spectrum analyzer is used for scattered site housing, lead concentration can usually be determined accurately without scraping the paint. Sometimes, however, substrate correction is required. The inspector must decide the necessity for this on a case-by-case basis. The following rules apply for abatement decisions when a spectrum analyzer XRF is used. All spectrum analyzer results are reported with the substrate correction when necessary.

- **A.** Spectrum analyzer values greater than or equal to 1.3 mg/cm² require abatement.
- **B.** Spectrum analyzer values less than or equal to 0.3 mg/cm² indicate no lead is present at or above the regulatory level of 1.0 mg/cm².

**C.** Spectrum analyzer values between 0.4 and 1.2 mg/cm², inclusive, require confirmatory testing.

Confirmatory testing can be accomplished by submitting samples for laboratory analysis.

**4.2 Laboratory Testing for LBP in Paint Film**

Standard laboratory methods are able to quantitatively assess lead levels of paint samples from 0.1 to over 10 mg/cm². Because of their superior accuracy and precision as compared to portable XRF instruments, the laboratory methods are invaluable for confirmation of XRF results, as discussed in detail in § 4.1.6 above. However, because of the much higher cost of laboratory methods, the additional time required to perform the laboratory analysis, and the additional labor required to remove paint from sampled surfaces, laboratory methods are not practical or cost effective for the inspection of an entire project. Approved methods for laboratory analysis are tabulated in appendix 5.

**Laboratory analysis of paint samples is discussed in appendix 5. The action level is 0.5 percent by weight or 1.0 mg/cm² when laboratory analysis is used. If the laboratory results are to be reported in mg/cm² then the paint must be removed down to the bare substrate from a measured surface area; accurate determination of the surface area is important but adherent substrate or other non-paint material will not affect the result. If the laboratory results are to be reported as weight percent then the paint must be removed down to, but not including, the bare substrate; inclusion of substrate materials in the paint sample or not removing all of the paint will dilute the results. The collection of paint samples is covered in appendix 5. It should be pointed out that the area concentration standard of 1 mg/cm², and the concentration-by-weight standard of 0.5 percent are not necessarily equivalent. Roughly speaking, the two standards are equivalent when the painted surface has about 20 layers of paint with a 0.5 percent by weight concentration. For less than 20 layers of such paint, the standard by weight is more stringent; for more than 20 layers the area standard is more stringent. In much of the older housing stock, especially single family homes, very thick paint films may be encountered. In this case it may be desirable to submit some samples to be reported in both units.**

**4.2.1 Laboratory Selection**

Laboratory selection is a critical part of lead based paint abatement. PHAs are referred to appendix 13 for guidance on evaluating the capability of the laboratory to fulfill the testing requirements of the hazard identification and abatement project. When selecting a laboratory the PHA should consider factors such as: staff qualifications, facilities and equipment, laboratory quality assurance and quality control (QA/QC) procedures, the existence of standard operating procedures (SOPs), and other items detailed in appendix 5. Although there are currently no accreditation programs for lead paint analysis, accreditation in another area, especially metals analysis, would help provide the PHA with confidence that the laboratory participates in some type of QA/QC reviews. This will provide an indication of the quality of their work.

**Table 4.1.—Number of units to be tested as a function of project size**

<table>
<thead>
<tr>
<th>Number of units in building or group of similar buildings</th>
<th>Number of units to be tested</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>All units</td>
</tr>
<tr>
<td>20</td>
<td>31</td>
</tr>
<tr>
<td>40</td>
<td>36</td>
</tr>
<tr>
<td>80</td>
<td>42</td>
</tr>
<tr>
<td>100</td>
<td>45</td>
</tr>
<tr>
<td>200</td>
<td>51</td>
</tr>
<tr>
<td>300</td>
<td>54</td>
</tr>
<tr>
<td>400</td>
<td>55</td>
</tr>
<tr>
<td>600</td>
<td>56</td>
</tr>
<tr>
<td>1000</td>
<td>57</td>
</tr>
<tr>
<td>1500</td>
<td>66</td>
</tr>
<tr>
<td>2000</td>
<td>115</td>
</tr>
<tr>
<td>2500</td>
<td>144</td>
</tr>
<tr>
<td>3000</td>
<td>174</td>
</tr>
<tr>
<td>3500</td>
<td>203</td>
</tr>
<tr>
<td>4000</td>
<td>222</td>
</tr>
<tr>
<td>4500</td>
<td>261</td>
</tr>
<tr>
<td>5000</td>
<td>290</td>
</tr>
<tr>
<td>&gt;5000</td>
<td>299</td>
</tr>
</tbody>
</table>

**For intermediate project sizes between 1000 and 5000, the number of units to be sampled may be approximated by adding 6 sampled units per 100 units in the project, to the previous sample size in the table. For example, the number of units to be sampled in a 2700 unit project is 144 + 2*6 = 156.**

**Table 4.2.—Surface testing sites**

[See Appendix 4.0 for illustrations of selected areas]

<table>
<thead>
<tr>
<th>Surface</th>
<th>Number of units to be tested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baseboard</td>
<td>1 in each area.</td>
</tr>
<tr>
<td>Ceiling</td>
<td>1 in each area.</td>
</tr>
<tr>
<td>Crown molding</td>
<td>1 in each area.</td>
</tr>
<tr>
<td>Door</td>
<td>surface of door and one side of the frame on a representative interior door in each area.</td>
</tr>
</tbody>
</table>
4.2.2 Data Reporting and Interpretation

Recommended based on other program is developed. Appendix 8 lists basis until a laboratory accreditation is part of a divided room, such as the dining area of a laboratory, facilities, equipment, analysis, along with information on sample analysis and QA/QC sample laboratory to follow in the classification. These classifications are be regarded as a separate data form which would be created for the laboratories to follow in the documentation phase. Specific data items which would be found in each classification are listed below; each classification could classifications. These classifications are laboratory identification of the analysis methods, and the conditions under which the analysis method was performed are presented on a cover page. This information identifies the entire packet of method results, which are summarized in subsequent data categories.

Sample Information. A list of all samples analyzed in the given run (both field samples and QC samples), in the order in which they were analyzed, is included in this category. Also included is such sample information as sample type, sample weight, analysis date, and dilution factors. The chronological ordering of the samples is important in this form so that the QC samples can be matched with the field samples.

Results of the verification procedure on quantification of the analysis of the blank samples are summarized. Results of the verification procedure on spike samples are summarized. The calculation of sensitivity for Atomic Absorption is summarized for a particular run.

Results of Initial Precision and Accuracy. Results of the initial runs of 4 aliquots of reagent water spiked with known concentrations of lead are summarized.

Results of Calibration. Results of each determination of the calibration curve are summarized.

Results of Analysis on Blanks. Results of the analysis of the blank samples are summarized.

Results of Calibration Verification. Results of the verification procedure on the calibration curve through verification standard samples are summarized.

Results of Tests for Accuracy. Results of the analysis on both QC samples and the Method of Standard Additions. Sources of standards used in the analysis should also be completely documented.

Data Conversion. Results of the laboratory analyses must be expressed in a form which would allow comparisons with the appropriate regulatory limits to be made in order to determine whether abatement is necessary. Results of dust and air samples must also be in a form to compare against pre-determined clearance criteria to assess whether clearance can be given to the unit following the clean-up stage. The data conversion procedure must be clearly documented. In addition, the PHA should keep complete records on the abatement and clearance decision processes, including the establishment of a link between the laboratory analyses and the decisions on abatement and on clearance. General data conversion procedures are discussed in appendix 9, section A–5.2.4; data conversion specific for a given sample type is discussed in sections A–5.3.3, A–5.4.3, and A–5.5.3.

4.2.3 Documentation and Reporting

Sampling and chemical analysis are costly activities that may be required in different phases of a lead-based paint testing and abatement program, such as hazard identification (as discussed in this chapter 4), hazard abatement (chapter 6), and postabatement clearance (chapter 10). Whenever sampling and analysis activities are to be performed both in the field and in the laboratory, it is crucial that a well thought-out plan be developed prior to the initiation of testing. Careful planning will ensure that an adequate amount of data of sufficient quality is collected to meet the testing objectives. It will also generally result in more efficient use of program resources, more cost-effective testing designs, and a better understanding of project requirements between PHAs and laboratories.

As noted in chapter 3 of these guidelines, the PHA should ensure that all testing and abatement activities are performed in accordance with an approved plan, and that all results are

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**Table 4.2—Surface Testing Sites—Continued**

(See Appendix 4.0 for illustrations of selected areas)

<table>
<thead>
<tr>
<th>Location</th>
<th>Sample Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fireplace</td>
<td>1 in each area</td>
</tr>
<tr>
<td>Floor</td>
<td>1 in each area</td>
</tr>
<tr>
<td>Radiator</td>
<td>1 in each area</td>
</tr>
<tr>
<td>Shelf</td>
<td>1 in each area</td>
</tr>
<tr>
<td>Stair</td>
<td>riser, tread, stringer, newel post, railing cap, balustrade, upper wall, lower wall, and chair rail (if applicable) in each area.</td>
</tr>
<tr>
<td>Wall</td>
<td>Sash, casing, and sill on a representative window.</td>
</tr>
<tr>
<td>Window</td>
<td>surface of door and door casing.</td>
</tr>
<tr>
<td>Exterior</td>
<td>Surface of floor and door casing.</td>
</tr>
<tr>
<td>Bulkhead</td>
<td>Surface of floor and door casing.</td>
</tr>
<tr>
<td>Ceiling</td>
<td>Surface of floor and door casing.</td>
</tr>
<tr>
<td>Cornerboard</td>
<td>Surface of floor and door casing.</td>
</tr>
<tr>
<td>Door</td>
<td>Surface of floor and door casing.</td>
</tr>
<tr>
<td>Trim</td>
<td>Surface of floor and door casing.</td>
</tr>
<tr>
<td>Siding</td>
<td>Surface of floor and door casing.</td>
</tr>
<tr>
<td>Stair</td>
<td>Surface of floor and door casing.</td>
</tr>
<tr>
<td>Support column</td>
<td>Surface of floor and door casing.</td>
</tr>
<tr>
<td>Support railing</td>
<td>Surface of floor and door casing.</td>
</tr>
<tr>
<td>Ceiling</td>
<td>Surface of floor and door casing.</td>
</tr>
</tbody>
</table>

1 In each area (each room, closet, pantry, hall, part of a divided room, such as the dining area of a kitchen/dining room, etc.), the following surfaces are suggested for screening.

Appendix 8 details the important criteria for laboratory selection. A PHA should use these criteria on an interim basis until a laboratory accreditation program is developed. Appendix 8 lists some laboratories which are recommended based on other accreditations in lead analysis.
Paint Abatement Plan be prepared by the PHA for each abatement project (chapter 6). This Plan is an internal PHA document that should be used by the PHA to guide its entire abatement effort. Part of the Abatement Plan should address hazard identification activities associated with testing for lead-based paint. It should provide a Sampling and Analysis Plan for these activities, which includes the reporting of results from hazard identification testing. For example, a recommended format for reporting summary results of XRF testing to a PHA was presented in section 4.1.5. Detailed procedures and sample forms for documenting the results of the inspection are given in appendix 4. Record retention and reporting requirements for PHAs and inspectors are discussed in section 4.3.2. (Information collection requirements are approved under OMB number 2577-0090.)

4.3.1 Sampling and Analysis Plan for Hazard Identification

Sampling and Analysis Plans for HUD lead-based paint testing programs should include all of the items generally associated with an EPA Quality Assurance Project Plan, such as sampling objectives, data quality objectives, data interpretation methods, sampling design, and quality control procedures for the field and laboratory methods. A summary of the main components of a Sampling and Analysis Plan is provided in Figure 4.3. It is recommended that when preparing a Sampling Plan and Analysis Plan for PHA LBP testing and abatement programs, all of the items in Figure 4.3 should be considered, and that plans will be written according to the outline presented in Figure 4.3. However, the amount of detail supplied in the Sampling and Analysis Plan will depend on the size of the housing project and the complexity of testing. Plans for programs requiring laboratory testing or for large housing projects will in general be more detailed than those for programs not requiring laboratory testing or for small projects. Detailed guidance for preparing such plans can be found in appendix 13 of this guidance document.

4.3.2 Reporting Results of Hazard Identification

One of the important components of a Sampling and Analysis Plan is a description of the reports that will be developed to summarize the progress and results of the hazard identification testing. Among the important reports and quality assurance deliverables generally needed in the hazard identification phase of a lead-based paint testing and abatement program are the following:

- Final report of the hazard identification testing that details where and at what concentrations lead-based paint was found, and includes a summary of the results to aid PHA decisionmaking, as described in section 4.1.4.
- Periodic progress reports that summarize progress made, problems encountered, and plans for the next reporting period;
- Reports of quality assurance audits; and
- Documentation of deviations from approved protocols and procedures, along with corrective actions taken.

The Sampling and Analysis Plan should state the frequency with which each type of report will be delivered, and the chain of actions associated with each report including the responsible individuals, decisions to be made, and actions to be taken. It should include an outline for the final report, and a discussion of how the testing results will be presented and interpreted. Reporting is more fully discussed in appendix 13.

A summary of all results of the completed inspection should be provided to the PHA, the resident tenants, and public health agencies if required by State and local law. Inspection firms should maintain complete records of all inspections conducted to detect lead paint hazards, including all standardization readings, sample readings, ALCs, SELs, etc.

When direct reading XRFs produce ALCs less than 3.0 mg/cm² (flat surface) or 4.0 mg/cm² (non-flat surface), the PHA should require specific information in lead inspection reports, including both ALC averages and SEL averages for each specific building component sampled, the range of the readings for these averages, the calculated CLC, where and when accuracy checks were made, and when drift checks were made, and detection limits for each specific XRF used. Example reporting formats are provided in appendix 4.

When spectrum analyzers are used in lead inspections, the inspector should provide representative spectra and their interpretation in addition to the applicable information suggested above for the direct-reading analyzers.

PHAs are required to maintain records on which units, common areas, and PHA owned or operated child care facilities have been tested; the results of the testing; and the condition of the painted surfaces by location in or on the unit interior, common area, exterior surface or PHA child care facility (24 CFR part 965).

PHAs are required to provide the following information to HUD when units have been tested for lead paint and for single unit and/or child care facilities associated with children identified as having an elevated blood lead level have been tested (Information collection requirements are approved under OMB number 2577-0090):

- Complete identification of the units receiving testing;
- The results of single unit, random and further testing if performed; and
- A description of testing methods.

When LBP hazards (as defined) are found, residents of those units must be notified as required by section 302(c) of the LBPPPA. PHAs should provide HUD with evidence that residents have been notified of positive tests results.

1.0 Planning and Design
2.0 Field Sampling Equipment and Methods
3.0 Laboratory Analyses and Measurements
4.0 Health and Safety
5.0 Data Processing and Analysis
6.0 Quality Assurance
7.0 Reporting
8.0 References

Figure 4.3 Elements of a Sampling and Analysis Plan for HUD Lead-Based Paint Hazard Identification and Abatement Programs. This plan is discussed fully in appendix 13.

Chapter 5: Roles and Responsibilities in Abatement

5.0 Introduction

This chapter identifies the Federal, State and local agencies and participants with roles and responsibilities in LBP abatement. Also suggested are training requirements for actors in the abatement process. Roles and responsibilities for designated actors in the generation and disposal of hazardous wastes are described in Section 11.1.

5.1 HUD and Other Federal Agencies

HUD has the primary responsibility to regulate LBP in federally owned or assisted housing. A PHA can request and may receive funding for LBP testing and abatement from HUD's Comprehensive Improvement Assistance Program (CIAP). A PHA also may use its operating reserves to address LBP hazards found during routine maintenance or single unit abatement for EBL children. Other Federal agencies with requirements relating to LBP abatement are:
• EPA, whose regulations address environmental protection during LBP waste disposal (see chapter 11); and
• OSHA, whose regulations address the working environment of the abatement personnel (see chapter 8).

When a PHA plans to engage in LBP abatement, it should contact these agencies for assistance. Information provided should be documented by the PHA including the dates, times, and place of meetings as well as topics of discussion and conclusions reached.

5.2 State and Local Sources of Advice and Assistance

After reviewing these Guidelines, a PHA should consider contacting the following agencies for local regulatory requirements and advice:

• Local housing and community development programs, for information on possible special funding programs available to low-income housing; and
• Local health and environmental control programs for information regarding the following:
  — Possible sources of funding;
  — State or local LBP standards, which may be more stringent than Federal standards. (The PHA, by regulation, must adhere to the most stringent regulations it encounters);
  — Possible assistance in testing units and the surrounding environment;
  — Possible blood lead screening services for workers and residents;
• The local office of building inspections, for names of contractors with LBP abatement experience and for information on local abatement work requirements.
• Local chapters of building, remodeling, and housing associations for names of contractors with abatement experience; and
• State health and environmental control agencies, to assure that toxic materials generated by the abatement program are properly transported and disposed of and to ensure that all protective measures associated with worker and residential health are taken and maintained throughout the abatement process.

5.2.1 Coordination With Federal, State and Local Agencies

To ensure that all reporting, recordkeeping, and other regulatory requirements are met, the PHA should contact Federal, State, and local agencies to coordinate efforts in the following areas:

• Abatement methods (contact State or local health or housing agencies to inquire about prohibited methods)
• Selection of a qualified contractor (contact local offices of building inspections to inquire about licensing and certifications)
• Post-abatement inspection and certification (contact State or local health or housing agencies to inquire about final inspections for unit re-occupancy)

5.3 PHA Roles and Responsibilities

Public Housing Agencies are responsible for understanding and complying with all Federal, State and local regulations as they address testing, relocation, abatement, worker protection and disposal of waste.

Monitoring HUD regulations on a continuous basis will allow early identification of new requirements and financial assistance that is or will be made available for LBP abatement programs in public housing projects.

5.3.1 Board of Commissioners

The PHA Board of Commissioners, which is responsible for taking action to safeguard the PHA’s residents, should provide the organizational impetus for necessary lead-based paint detection and abatement actions.

5.3.2 PHA Executive Directors

The PHA Executive Director is responsible for:

A. Being informed, and informing his Board, of all aspects of the LBP problem and regulatory requirements that address the problem;
B. Recommending to the Board any LBP policies that should be adopted; and
C. Carrying out Board policy by directing its implementation.

Additionally, the Executive Director is responsible for ensuring that all the tasks outlined below have been addressed by the Modernization or LBP Abatement Coordinator.

5.3.3 PHA Modernization or LBP Abatement Coordinators

The PHA Modernization or LBP Abatement Coordinator is responsible for:

A. Contacting the local health department to determine whether any child living in the PHA-owned project has been identified as having an elevated blood-lead level;
B. Ensuring that consultations with tenants and homebuyers are conducted, as appropriate, to inform them that the project to be modernized contains LBP, to discuss the hazards of LBP, and to detail how the PHA plans to address the LBP hazard;
C. Acquiring the input needed for developing the lead-based paint activity plan;
D. Developing planning cost estimates;
E. Ensuring that the LBP activities are included in the PHA’s Needs Assessment;
F. Arranging for tenant relocation, when necessary;
G. Ensuring that all the requirements of the Comprehensive Improvement Assistance Program have been met, and that LBP activities and requirements, have been addressed in the PHA’s request for funding;
H. Developing and awarding testing and abatement contracts;
I. Monitoring the implementation of testing and abatement contracts;
J. Ensuring that clearance testing is performed and that the appropriate reoccupancy standards are met;
K. Ensuring that the abatement plan includes sequencing of the work in ways that protect the non-abatement workers involved in the modernization, if abatement is performed in conjunction with other modernization; and
L. Recordkeeping.

5.4 Engineers/Architects/Designers/Planners

The engineer/architect/designer prepares the cost estimates, specifications, and detailed design work associated with a lead-based paint abatement project. If abatement is performed in conjunction with modernization, this person is also responsible for sequencing the work in ways that protect all non-abatement activities.

Engineers, architects, and designers must be sure to stay abreast of new developments in abatement. By contract, they may assume some responsibilities of the Modernization or LBP Abatement Coordinator.

A planner should understand the advantages, disadvantages, and costs of each abatement strategy and consider all of them in planning for abatement. In many instances, it may be necessary to use more than one strategy in a single unit.

5.5 Abatement Contractors

The abatement contractor has the following responsibilities:

A. Being fully knowledgeable of general renovation techniques, including LBP abatement;
B. Ensuring that the requirements of the specific abatement project are met;
C. Training (or arranging for training) of workers and supervisors on engineering controls and good work practices relating to abatement and impressing upon them the importance of adherence to these controls and practices;
D. Ensuring the safety of workers and preparing the worker protection plan; and
E. Implementing all contractual requirements and adhering to these Guidelines.

5.8 Abatement Work Crew Supervisor

The work crew supervisor is responsible for properly implementing abatement methods and for enforcing work practices that ensure worker safety, especially practices that control dust produced during abatement.

5.7 Mandatory Worker Education and Training

Employers of deleading workers, either abatement contractors or PHAs using force account labor, must provide worker education and training. The employer may train workers either in an array of abatement methods or only for the methods specified in the particular abatement plan. All education and training should, at a minimum, include information on the following topics:

• Possible routes of exposure to lead.
• The known health effects associated with exposure.
• The importance of good personal hygiene.
• The specific methods of abatement to be used.
• The proper use and maintenance of protective clothing and equipment.
• The correct use of engineering controls and implementation of good work practices.

All of these topics are addressed in section 5.7.1 through 5.7.6. PHAs are encouraged to meet the requirements of the OSHA Hazard Communication Standard (29 CFR 1910.1200) even though it does not apply to workers in the construction field. The Standard states that workers have the right to know what hazards they will be exposed to, what precautions to take, and what sources of information are available to them. The standard also requires employers to have a written hazard communication program and an information and training program. An example of a PHA hazard communication program is provided in Appendix 10. All worker education programs must discuss and make available the Hazard Communication Standard. It is also recommended that they provide workers with a copy of chapter 8 of these Guidelines (Worker Protection). Employers should also check local requirements, as some States have adopted their own right-to-know regulations.

The OSHA Hazard Communication Standard also requires that workers be given access to medical and exposure records and to results from any studies conducted by the employer. The worker can also request an explanation of what his or her medical records mean. In addition, the standard gives workers the right to examine industrial hygiene sampling information, results of biological monitoring, exposure records, and material safety data sheets.

5.7.1 Information on Lead Exposure and Health Effects

The toxic effects of lead have been reported extensively in the literature and are associated primarily with exposure by inhalation and ingestion. All worker education programs addressing the adverse health effects of lead and other potential exposures that may occur during abatement activities should cover the following:

• Potential airborne and dermal exposures (e.g., lead, methylene chloride) and physical agents (e.g., heat, electricity) associated with the particular abatement methods used.
• Routes of exposure for fetuses, children, and adults.
• The types and meanings of tests to determine lead and other exposures.
• Adverse health effects that may occur in fetuses, children, and adults as a result of exposure.
• Blood lead levels at which various health effects may occur.
• Signs and symptoms of lead poisoning.
• Medical tests that may be required, including emergency first aid.
• Conditions requiring medical referral.
• Conditions requiring medical referral.

The training program should include information from recent research studies indicating that (1) lead is transferred from the mother to the fetus during pregnancy, and (2) exposure of the fetus to lead, even at low concentrations, is associated with developmental effects.

The worker who understands the potential toxic effects of lead, even at low exposure concentrations, will appreciate the need for safety precautions and attention to good work practices. Workers should be encouraged to report any signs or symptoms of lead poisoning to their employers.

5.7.2 Personal Hygiene

Good personal hygiene practices can contribute greatly to the control of worker exposure to lead. Additionally, workers need to understand the potential for exposing family members to lead brought home on clothing, shoes, hair, and tools from the work site. All training programs should include a discussion of the following good personal hygiene practices:

• Refraining from eating, drinking, tobacco use, and applying cosmetics in the work area.
• Using designated changing and shower areas to avoid cross-contamination of street and work clothes.
• Washing the hands and face at appropriate times.
• HEPA-vacuuming protective clothing before leaving the work area.
• Using any other measures explained during the training program to prevent the transfer of lead to the worker’s home, car, or environment.

5.7.3 Training in Specific Methods of Abatement

Before participating in abatement procedures, workers should receive training in the various types of abatement methods, including the advantages and disadvantages of different methods, appropriate and inappropriate applications for different substrates (see Table 9.1 in chapter 9), and the use of special tools and equipment.

5.7.4 Use of Protective Clothing and Equipment

Workers must be taught about the need for protective clothing and how to select, wear, and maintain appropriate protective clothing and equipment. This training should include information about the proper procedures for dressing and undressing to prevent contamination, and the use of gloves, facial protection, eye protection, and shoe coverings. Respiratory protection measures should be explained in detail, including instruction on individual-fit testing of respirators and procedures for maintaining and cleaning them. Before individual-fit testing, workers must be referred for a medical examination (see section 8.5). Employers have the ultimate responsibility for the proper use and maintenance of all their workers’ protective clothing and equipment.

5.7.5 Engineering Controls and Good Work Practices

Workers should be given information on the importance of implementing the following types of engineering controls and good work practices:

• Measures for controlling debris and lead dust (e.g., local HEPA-filtered exhaust ventilation and vacuum systems).
• Measures for the containment of debris and lead dust (e.g., enclosing work areas and packaging wastes).
• Housekeeping measures

See chapter 9 for information on controlling and containing lead dust and chapter 10 for information on housekeeping measures.

Training should include information about controlling lead dust exposure by using HEPA-filtered vacuum and by prohibiting dry sweeping and cleaning with compressed air. Instructors should explain the proper maintenance of HEPA vacuum and the safe handling of their filters (see chapter 11).

Hands-on training for the implementation of containment measures should be provided.

5.7.6 Other Health and Safety Considerations

Instructors should review all general health and safety precautions, particularly those relating to plastic sheeting (such as how to avoid potential slips, trips, and falls) and to the use of hazardous chemicals. Workers should be trained in special precautions when working in buildings with housing code violations and structural problems (e.g., damaged stairs or missing floorboards). Particular attention should be paid to the following items:
• Safe use of ladders and scaffolding.
• Potential fire hazards.
• Electrical safety.
• Avoiding heat stress and heat exhaustion while wearing protective clothing.
• Avoiding exposure to carbon monoxide, solvents (e.g., methylene chloride), and caustic chemicals.

5.8 Finding Qualified Trainers, Consultants and Other Health and Safety Specialists

The following sources can help PHAs identify qualified trainers, consultants, industrial hygienists, and other health and safety specialists:
• Housing, remodeling, and redevelopment associations.
• Federal, State, and local government units dealing with occupational safety and health or industrial hygiene (see Appendix 7).
• State or local departments of health or environment.
• American Academy of Industrial Hygiene.
• American Industrial Hygiene Association.
• American Society of Safety Engineers.
• Academic or university-based environmental centers.

5.8.1 Suggested Training for Abatement Planners and Supervisors

Planners and supervisors require more in-depth training than workers receive. As in asbestos training, LBP planners and supervisors may be trained separately from each other. However, considering the lack of national experience in LBP abatement at the time these Guidelines were published, it is suggested that the two groups be taught in the same courses so they can communicate and share relevant experience. Suggested topics for planner and supervisor training are shown on table 5.1.

5.8.2 Suggested Training for Abatement Workers

It is important that abatement workers be apprised of the hazardous nature of lead and of precautions to be employed in LBP abatement. The similarities and differences between LBP and asbestos abatement projects should be highlighted. Table 5.1 presents suggested classroom training topics for LBP abatement workers. In addition to receiving classroom instruction on these topics, workers should spend at least one additional day at a job site. The classroom instruction is not meant to replace extensive on-the-job training but is suggested as a supplement to other educational efforts.

Table 5.1—Training Topics for Workers, Abatement Planners, and Supervisors—Continued

<table>
<thead>
<tr>
<th>Topic</th>
<th>Workers</th>
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<tbody>
<tr>
<td>Toxicity of Lead</td>
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<td>How Can I Protect Myself? (respirators)</td>
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<tr>
<td>Other Chemical and Safety Hazards</td>
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<tr>
<td>Using Tools</td>
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<td>Completing the Project</td>
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<td>Role of the Inspector</td>
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<td>Lead in Construction and Abatement</td>
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<td>Monitoring and Medical Removal</td>
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<td>Signs and Labels</td>
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<tr>
<td>Preparing the Work Area</td>
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<td>Cleanup: How and Why</td>
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<tr>
<td>Worker Responsibilities</td>
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<tr>
<td>In addition, 1 day observing at the job site is recommended.</td>
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<tr>
<td>Abatement Planners and Supervisors</td>
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<tr>
<td>Introduction and History of the Lead Problem</td>
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<td>HUD Regulations</td>
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Chapter 6: Before You Abate Lead-Based Paint

6.0 Introduction

To ensure a successful abatement process, the PHA must complete a number of tasks before abating lead-based paint, including (1) finding a qualified contractor; (2) developing an abatement plan (especially when many units are involved); (3) developing an abatement testing plan; (4) coordinating and scheduling the abatement work correctly; and (5) performing various types of testing. This chapter explains all of these steps in detail. Testing performed before, during, and after the abatement work is also discussed.

6.1 Finding a Qualified Contractor

To find qualified or certified abatement contractors, PHAs should contact their local and State departments of health and environmental agencies, and also local chapters of building, housing, and renovation organizations.

Abatement contractors must have wide experience in building renovation and restoration procedures and be familiar with the contents of these Guidelines. Contractors must also be aware of all applicable Federal, State, and local regulations pertaining to lead abatement work and any relevant licensing or certification requirements. PHAs and contractors should check with State and local health and environmental departments and State regulations.

Legal Issues and Environmental Ethics
OSHA Lead Standard
Applicable Local Regulations
Testing Interpretations: XRF and Lab
Hazard Communication Program
First Aid and Other Emergencies
Use of Tools in Abatement Jobs
Cleanup Techniques
Clearance Criteria
Hazardous Waste
Developing Contract Specifications
Safety Hazards and Site Security
Containment Systems and Ventilation
Protective Clothing and Heat Stress
Selection of Contractors
Respirators and Respirator Program
Medical Surveillance Programs
Responsibilities of Managers and Planners
Recordkeeping and Access Requirements
Occupant Relocation
Selection of Environmental Firms
Choosing an Abatement Strategy
Abatement and Modernization Program

Table 5.1—Training Topics for Workers, Abatement Planners, and Supervisors—Continued
licensing boards for specific requirements in their area. Three States—Maryland, Massachusetts, and Connecticut—are currently in the process of implementing certification, licensing, or training requirements for abatement contractors.

All abatement workers must agree to submit to a pre-abatement medical examination and periodic follow-up testing (see chapter 8). Additionally, they should attend a training session to ensure that they understand the threat of lead poisoning in children and workers, the health effects of lead exposure, and ways to minimize exposure. The course content of such training is discussed in chapter 5.

In addition to skills specific to lead abatement, abatement workers may need basic construction skills to perform various abatement jobs, such as:
- Demolition (e.g., removal of old window frames);
- Carpentry (e.g., installation of new wood component parts);
- Painting; and
- Floor installation.

The types of general construction skills needed will depend on the PHA's choice of abatement and modernization strategies and methods.

6.2 Developing the Abatement Plan

When a PHA needs to abate a large number of units, the PHA should consider developing an abatement plan. In the case of abatement done in conjunction with modernization, a PHA should consider consulting with an architect or engineer to sequence the work so that both abatement and non-abatement workers are protected from lead exposure. To streamline the planning process, PHAs should consult with local HUD offices or other PHAs to obtain model plans.

A workable abatement plan:
- Provides necessary organization;
- Clearly establishes relationships among the PHA, designer, testing contractor, abatement contractor, disposal contractor, and general contractor;
- Establishes all responsibilities for testing, training, abatement, cleanup, disposal, and recordkeeping and reporting;
- Establishes priorities for units to be abated; and
- Establishes completion deadlines.

6.2.1 Elements of the Abatement Plan

The essential elements of an abatement plan address the following items:
- An overall timetable;
- Liaison with local, State, and/or Federal agencies; contractors performing supporting services; and the residential population;
- Resource acquisition and allocation;
- Inspection and testing;
- Specification of abatement methods, including demolition requirements, replacement and/or encapsulation requirements, paint removal requirements, and material storage;
- Containing and controlling lead dust and debris;
- Cleanup during and after abatement;
- Resident and environmental protection, including temporary relocation of residents, protection of occupants' belongings, and waste storage on-site prior to disposal;
- Worker protection;
- Disposal of abatement waste; and
- Recordkeeping and notifications.

6.2.2 Elements of an Abatement Testing Plan

When a PHA is planning to abate a large number of units, a plan for carrying out required testing before, during, and after abatement should be developed. Section 6.2.3 discusses the roles and responsibilities of the participants in the abatement testing process, and provides guidance for developing a comprehensive testing plan. Section 6.4 discusses in greater detail testing associated with the abatement process.

A comprehensive abatement testing plan should address how to schedule testing to comply with regulations and how to coordinate testing with abatement and cleanup. The extent of testing to be conducted will be determined, in part, in the pilot abatement projects (§ 6.3.2). Testing must be coordinated among all affected parties. For example:
- The inspector or agency conducting the final inspection should know the approximate date the abatement and cleanup will be completed, so that visual inspection and wipe testing can be scheduled.
- An inspector or firm using a laboratory should determine in advance how long it will take to get results. (The timing of wipe sample results, for example, will determine when the abatement contractor will need to perform additional cleanup, and when the unit can be re-occupied.)
- The schedule for abatement activities must be clearly communicated to the testing agency performing air monitoring.

Final inspection and certification after abatement must be made by a qualified inspector, industrial hygienist, or local public health official. A sample form for documenting the results of surface dust testing is included in appendix 5. The inspector should issue a report to the PHA and the state/local public health agency, detailing the results of the final inspection, the inspection techniques used, and the specific abatement procedures and products used. The PHA should maintain records indicating compliance with applicable federal, state, and local requirements. The PHA should issue a statement (See appendix 12) to affected residents that abatement was performed and the unit cleared for reoccupancy.

6.2.3 Roles and Responsibilities

The first step in developing an abatement testing plan is to understand clearly the roles and responsibilities of all participants in the testing process, as described below.

6.2.3.1 Public Housing Authority Abatement Coordinator. The responsibilities of the PHA Abatement Coordinator include the following:
- Selecting a laboratory to analyze samples from the properties (this can be delegated to the inspector).
- Selecting a technical advisor, if necessary, to assist in designing and monitoring the abatement work.
- Obtaining the services of a qualified inspector (one trained in all aspects of conducting the final inspection, including visual inspection and surface dust testing), industrial hygienist, or local public health official to conduct the final inspection.

6.2.3.2 Lead Inspector. Responsibilities of inspectors and testing agencies that perform monitoring during abatement include the following:
- Familiarize themselves with the abatement plan and review abatement work to ensure that it conforms with the approved abatement process plan (including procedures for containment and for worker protection).
- Be accessible to the PHA, abatement contractor, and occupants to answer questions.
- Conduct air monitoring as needed during, pilot abatement projects and abatement, and submit samples to the laboratory.

Responsibilities of testing agencies and inspectors that conduct final inspections include the following:
- Determine, through visual inspection and surface dust sampling, if abatement was carried out according to the approved abatement plan and is complete.
- Document results and notify PHA (and state or local agencies if required).
To avoid potential conflict of interest, a single firm should not perform both abatement and final inspection.

6.2.3.3 Abatement Contractor and/or Subcontractor. The contractor, subcontractors and PHA are responsible for abating the lead paint in accordance with the specifications. Abatements will be carried out to ensure the safety of workers and residents.

To avoid potential conflict of interest, the abatement contractor should not conduct the final inspection. This should be done by a qualified inspector, industrial hygienist, or local public health official.

6.2.3.4 State/Local Environmental Health Agencies. State and local environmental health agencies are gradually playing a larger role in lead paint abatement. In some states, allowable abatement procedures and analytical methods have been mandated. States with regulations also have enforcement capabilities. Usually, these states require advance notification of abatement projects so that enforcement agencies can systematically inspect and assure the quality of the abatement project. These agencies should be consulted prior to the initiation of a lead paint survey or abatement program.

6.2.4 Step-by-Step Preplanning

After determining that there is a need to abate LBP, the following preplanning steps must be performed:

A. Become familiar with HUD's regulations and notices pertaining to LBP.
B. Notify the Board that there are LBP hazards within the PHA's housing stock.
C. Develop a system of recording and monitoring all actions taken and information received concerning LBP abatement, on a unit-by-unit basis.
D. When a lead-poisoned child is identified, the required response time is very short and special steps must be taken. Therefore, PHAs should immediately develop an emergency response plan for this eventuality.
E. Abatement in units housing children with elevated blood leads is addressed further in chapter 12. "Single-Unit Abatements for EBL Children."
F. Contact the local health department to determine whether any local lead-poisoning prevention programs exist (appendix 2), and inform the affected residents about the programs.
G. Notify maintenance employees of LBP hazards in the units and document this notification. An example of a PHA Hazard Communication Program is given in appendix 10.

6.3 Coordination and Scheduling of Abatement Work

6.3.1 Coordination With Other Modernization Work

When renovation and abatement are to be combined, the abatement work should be done first. To protect the general contractor's workers, the abatement contractor must complete the preliminary cleanup specified in section 10.2.3.1, including thorough high efficiency particle air (HEPA) vacuuming and trisodium phosphate (TSP) wet washes of all horizontal and vertical surfaces (see chapter 10, Cleanup).

If abatement does not involve complete removal of lead paint from the work site, careful work specification, sequencing, and coordination are required to ensure that the general contractor does not re-expose the lead hazard. Clearance testing must be performed at the end of the abatement or renovation job. If the general contractor's work will re-expose the lead hazard, then the general contractor's workers should be trained and protected.

In the case of split work contracts: Where practicable, the abatement contractor performs the LBP abatement work, cleanup, and clearance testing, and the general contractor then follows with the renovation and replacement work. If complete cleanup and clearance testing are not practicable before entry of the general contractor's workers, unprotected workers should not enter the abatement area prior to a daily cleanup as specified in section 10.2.2.1. If the general contractor's work must be done before the abatement begins, and his workers break a LBP surface, then they must be protected; if no LBP surface is broken, no worker protection measures are required. These scenarios are best established by doing pilot abatement projects (see section 6.3.2).

PHAs are required to hold preconstruction conferences with the abatement contractor to discuss the particular requirements of the Comprehensive Improvement Assistance Program (CIAP) contract including abatement work. If abatement is done in conjunction with modernization work, the preabatement and preconstruction conferences should be held jointly and include the general contractor; the sequencing of the work and any measures needed to protect the general contractor's workers should be reviewed. For further detail see Appendix 14 Instruction on How to Integrate LBP Procedures into the CIAP Process.

6.3.2 Pilot Abatement Projects

PHAs planning to abate large numbers of units (ten or more) should consider using pilot abatement projects to avoid the unnecessary expense for exposure monitoring, dust and waste testing and other abatement activities. In these pilot projects, the PHA performs complete abatement on a housing unit before starting abatements on any others. The experience gained from the first few units can lead to significant cost savings in abating the rest of the units, including information as to whether or not residents will have to be relocated in future like abatements (chapter 9).

Within CIAP, housing projects containing more than 100 units may set aside 10 units for pilot abatement projects; those containing fewer than 100 units may set aside 5 units. Pilot projects can provide useful information on at least four aspects of abatement: worker protection, abatement strategies, waste disposal and cleanup, described below.

First, data collected during pilot abatements can indicate how much worker protection is needed. Such pilots would most likely be appropriate only for limited types of abatement that generate very little dust, such as removal of doors or other limited activities. During such abatements in the pilot units, full containment and worker protection must be used. After removing the containment plastic but before extensive cleanup, dust wipe samples should be taken on appropriate surfaces. If uncleared lead levels are below the clearance standards (see section 10.4.2) then less worker protection can be used during identical abatement activities in comparable units. Worker protection should be employed in the pilot unit abatements until proven unnecessary. If the PHA or contractor is considering eliminating the use of respiratory protection, exposure monitoring must be performed during pilot unit abatements to determine whether airborne lead levels indicate that respiratory protection should be used (see section 8.1).
Second, debris produced during abatement in pilot units can be used to characterize wastes as either solid or hazardous. As explained in chapter 11, the PHA or contractor can use knowledge and experience to decide whether abatement wastes must be tested to determine their type. If the PHA and contractor lack experience about the particular wastes generated during abatement, then pilot abatement wastes should be tested and the resulting data used to categorize the wastes as either solid or hazardous. By using this information for subsequent abatements, PHAs can learn how to segregate the hazardous waste from the general debris to minimize disposal costs and avoid the high cost of performing numerous waste characterization tests during abatement. Determining waste type in advance also makes it easier to plan for the disposal phase of the abatement, especially if the PHA has to obtain a generator identification number, hire a hazardous waste disposal firm, etc. (See chapter 11 for disposal information.)

Third, as explained in chapter 7, “Choosing an Abatement Strategy,” there are few data on the ability of abated units to meet dust clearance standards when dust-generating methods (on-site removal) are used. If the PHA is considering using dust-generating methods or other untried methods, pilot abatements should be performed and exposure monitoring and wipe testing data collected and analyzed prior to beginning subsequent abatements. If it proves difficult to meet clearance standards in the pilot units, the PHA and contractor may have to reconsider abatement strategies.

Fourth, as explained in chapter 10, “Cleaning and Abatement,” a large number of repetitions of TSP wet washes and HEPA vacuuming needed during final cleanup is not fixed and will vary depending on the type of abatement performed. When more dust is generated (for example, by removal of components prior to replacement or on-site paint removal methods), more repetitions may be needed to meet clearance standards. Different approaches to final cleanup can be tried in pilot units to ascertain how much cleaning is necessary to meet clearance standards. If the unit “passes” with only one wet mopping and one HEPA vacuuming, these specifications can be used in subsequent abatements to avoid unnecessary cleaning repetitions, saving time and money. If extra cleaning is consistently needed to achieve clearance standards in the pilot units, then the final cleanup protocols can be adjusted to reduce the time and expense involved in performing too many cleanup and wipe test series.

6.4 Testing Associated with the Abatement Process

Given that a unit or some part of a unit is to be abated, it may be necessary to perform testing to determine existing lead dust levels in areas to be abatement or airborne lead dust levels during abatement, testing to determine residual lead dust levels after abatement and cleanup is required. The responsibilities of the various players in this segment of the abatement process is discussed above. Topics discussed in this section include the types of testing to be performed, laboratory testing methods for lead dust in air, and recommended documentation and reporting procedures.

6.4.1 Testing for Lead Before, During, and After Abatement

Testing for lead may be conducted before abatement to establish pre-abatement lead levels in surface dust, and/or during abatement to monitor airborne lead dust levels to determine appropriate levels of worker protection. Testing for lead is conducted after abatement to determine whether abatement and cleanup is complete. The checklists at the end of this chapter contain a list of actions associated with the abatement process to be taken by the inspector or testing agency.

6.4.1.1 Before Abatement: Surface Dust. When abatement is being conducted only in some rooms of a unit, PHAs may wish to conduct pre-abatement dust wipe sampling outside of the containment area to determine whether the containment works. This sampling is to be done solely at the PHA’s discretion if the PHA feels that such a check or contractor performance analysis is worth the expense. These pre-abatement samples would later be compared to postabatement samples in the same areas; if dust lead levels have risen, the abatement contractor should be required to clean the contaminated areas. On the other hand, if pre-abatement samples indicate unacceptable levels of lead and postabatement samples indicate that lead levels have not risen above pre-abatement levels, the abatement contractor should not be held responsible for cleaning the unabated areas. However, the PHA should take action to clean those non-abated areas.

Thus, PHAs may wish to do pre-abatement sampling when pre-abatement dust lead levels outside the containment area are suspected to be unacceptably high. Pre-abatement sampling should be part of the pilot abatements (section 6.3.2). Table 10.1 contains recommendations on the amount of postabatement wipe sampling that should be conducted. The number of pre-abatement wipe samples should be equivalent to the number of postabatement samples to which the pre-abatement samples will be compared.

Detailed guidance on dust sampling and analysis procedures is provided in section 10.4 and appendix 5, section A–5.4.

6.4.1.2 During Abatement: Airborne Dust. Exposure monitoring of airborne lead levels may be required either during pilot projects or during abatement if a worker experienced an unexplained rise in blood lead levels. Circumstances requiring airborne dust monitoring are described in section 8.1. When exposure monitoring is to be conducted during abatement, the following steps must be taken:

• Ensure that air monitoring equipment is in place or an air monitoring firm is on hand. Take air samples as required to determine whether or not a problem exists.
• Conduct frequent work site inspections during the air monitoring process to ensure that engineering controls are in place and abatement is conducted according to the approved abatement plan, including those portions concerning worker protection.
• Ensure that there is proper documentation certifying that laboratory quality control procedures were employed and convert laboratory results to airborne lead levels.
• Take appropriate action based on airborne lead level results to provide appropriate worker protection.

Detailed guidance on air sampling and analysis procedures is provided in section 6.4.2 and appendix 5, section A–5.5.

6.4.1.3 After Abatement: Surface Dust and Paint. Visual inspections should be performed to ensure that all surfaces requiring abatement have been addressed and that all visible dust and debris have been removed. After visual cleanliness has been confirmed, surface dust sampling must be performed to demonstrate compliance with applicable clearance criteria. In general, the following steps must be taken:

• Review surfaces that were found to have a lead hazard; surfaces that have been abated; and abatement methods used.
The main purpose for taking air samples during the abatement process is to determine whether airborne lead levels are a hazard for the abatement workers. For this reason, the laboratory results of the analysis of collected air samples need to be converted to the form of lead weight per volume of air sampled. Such information as the dilution volume of the sample and total sample weight are needed for this data conversion. These converted results would be compared with pre-determined guidelines to decide whether the airborne lead levels pose a threat to the health of the abatement workers.

6.4.3 Documentation and Reporting

As discussed earlier (section 4.3.1), it is essential that a well thought-out plan be developed prior to the initiation of expensive sampling and chemical analysis. For testing associated with the abatement process, sampling will primarily be done either for lead in airborne dust or for lead in surface dust. To ensure uniform planning and reporting formats, a Sampling and Analysis Plan should be prepared prior to any testing in accordance with the guidance presented in appendix 13. For relatively limited testing programs, the detail presented in the Plan may also be limited. However, following the guidance in appendix 13 will ensure a uniform thought process in the development of all testing plans.

As discussed in appendix 13, the Sampling and Analysis Plan should cover all aspects of the testing from sampling design to reporting. A summary of the main components of a Sampling and Analysis Plan is provided in Figure 4.1 of chapter 4. It is recommended that all Sampling and Analysis Plans be prepared in accordance with the structure outlined in appendix 13. The Plan should include a description of the important reports and quality assurance documentation to be delivered, along with the responsible individuals, decisions to be made, and actions to be taken. It should include an outline for the final report, and a discussion of how the testing results will be presented and interpreted.

6.5 Checklists for Abatement Planning and Implementation

These checklists may be useful to the PHA in determining all steps to be undertaken in the abatement effort.

Tasks To Be Done Before Abatement

1. Develop a plan that specifies the following:
   - Resource acquisition and allocation including personnel, funds, and budget
   - Responsibilities of all participants

   - Overall timetable and completion deadlines
   - Liaison with local, State, and Federal agencies, contractors, and residents
   - Testing before and after abatement
   - Methods of abatement and material storage requirement
   - Measures for containment and control of lead dust
   - Measures for cleanup
   - Plan for relocation of residents
   - Plan for coordinating/sequencing abatement with modernization work, if any
   - Plan for on-site storage of waste prior to disposal
   - Plan for worker training and protection
   - Plan for disposal of waste (including obtaining an EPA identification number)

2. Identify testing and abatement contractors

3. Obtain any necessary permits for abatement and disposal of waste

4. Notify occupants and residents of adjacent units

5. Relocate residents, as necessary

6. Satisfy any reporting requirements of Federal, State, and local agencies

7. Conduct preconstruction conference

8. Correct pre-existing conditions that would impede abatement or cause it to fail

9. Implement initial procedures for environmental protection and containment of lead dust and debris

10. Post warning signs

11. Provide a worker changing area

Tasks To Be Done During Abatement

1. Perform continuous on-site supervision

2. Limit access to work area

3. Perform ongoing maintenance of the containment system for lead dust and debris

4. Perform daily cleanup

5. Ensure proper on-site storage of waste prior to disposal

Tasks To Be Done After Abatement

1. Break down the containment system

2. Perform first round of final cleanup

3. Notify inspectors of readiness for inspection

4. Obtain approval of inspector to repaint abated surfaces as needed

5. Perform final round of cleanup

6. Notify inspector of readiness for clearance testing

7. Perform clearance testing

8. Obtain final certification

9. Dispose of abatement debris

10. Perform recordkeeping

   - Management reports and final certification
   - Testing reports and summary of abatement project and methods
   - Name and address of contractor
   - Reports prepared for other agencies
   - Permits
   - Reports associated with disposal

11. Satisfy any Federal, State, and local reporting requirements

12. Return occupants to unit

6.4.2 Laboratory Testing for Lead Dust in Air

Many of the recommended procedures associated with laboratory testing for lead dust in air are the same as for lead in paint film. Laboratory testing procedures for lead in paint film were discussed in section 4.2 with detailed supporting guidance provided in appendix 5, sections A-5.2 and A-5.3.

The most important difference between testing for lead in paint film and in air is the form of the sample which is taken. In order to obtain a sample of airborne lead dust, a known volume of air is pulled through a filter which captures the lead dust contained in the sampled air. The filter is packaged and delivered to a qualified laboratory for chemical analysis. Recommended procedures for the collection of air samples are discussed in appendix 5, section A-5.5.

Laboratory selection is a critical part of air monitoring for lead dust during the abatement process. Important laboratory selection criteria are discussed in appendix 5, section A-5.1. Also, appendix 8 lists a number of laboratories which are recommended based on accreditation for lead analysis in other media. Many of these laboratories may also be qualified for lead analysis of air filter samples. Recommended laboratory procedures for the cleanup and air filter samples are discussed in appendix 5, section A-5.6.
Chapter 7: Choosing an Abatement Strategy

7.0 Introduction

This chapter provides assistance to PHAs and consultants who must decide what general strategies to use in undertaking lead paint abatement projects. As is true for many health-related choices, a balance must be struck between the efficacy of the methods and the costs incurred. Any abatement activity must be conducted with appropriate protection of workers, residents, and neighbors. When abatement is finished, the property must be a safe place for adults and children to live. But this process, which may extend to thousands of dwellings, must be completed within a realistic financial budget. Costs incurred must not be so prohibitive that they deter abatement activity.

There are still many unsettled questions in the field of lead abatement that require investigation. Experts are not yet certain what residual concentrations and total amounts of residual lead in dust are compatible with safety for residents. Questions also remain about how effective the various cleanup and containment methods are in reducing residual lead dust. Answers to these questions require the results of field experiments being conducted by HUD; such experiments will ultimately determine which abatement methods are acceptable in large-scale lead control programs.

PHAs, however, cannot wait for all of the answers before initiating some abatement projects. These Guidelines are therefore based on what is now known and the experience of housing and public health officials who have undertaken lead-based paint abatements over the years.

7.1 The Problem of Dust

Any effort to remove or encapsulate lead paint or to replace components covered with lead paint can create lead dust. Lead dust is dangerous to workers and occupants because it is easy to ingest and inhale. Dust generation and deposition was a major problem with earlier efforts to abate lead paint using methods such as open flame burning and dry scraping with no containment or cleanup. From a health and safety perspective, it is important to protect workers from the harmful effects of lead dust during abatement, and to ensure that occupants are exposed to lowered amounts of lead dust after they move back into an abated apartment.

Post-abatement cleanup of lead dust can be difficult and must be done with care. Even with careful containment, it may be quite difficult to clean up after abatement methods that generate large amounts of dust. The difficulty of providing protection for workers and tenants when such dust-generating methods are used must, however, be balanced against the fact that these methods are often less costly and more easily performed with unskilled labor. These Guidelines therefore do not reject the use of strategies such as on-site paint removal, but require that such “traditional” abatement methods be applied in the context of an updated approach to abatement.

7.2 An Updated Approach to Abatement

The aim of the approach to abatement contained in these Guidelines is to safely and cost-effectively reduce exposure to interior and exterior lead-based paint and lead dust in order to better protect public housing occupants from the irreversible effects of lead damage.

The most important elements of the updated approach include:

- Carefully selecting a cost-effective abatement strategy,
- Relocating or protecting occupants and protecting workers during abatement,
- Using containment and careful work practices during abatement to minimize hazards and ease cleanup,
- Ensuring careful postabatement cleanup, and
- Barring re-occupancy until specified clearance criteria are met.

The necessity of minimizing lead dust generation during abatement is not absolutely clear. There is concern that large amounts of fine lead dust will be difficult to clean up well enough so that abated units meet the re-occupancy clearance standards specified in chapter 10. It always makes sense to be careful about generating lead dust during abatement, but dust generation is only one factor to be weighed in deciding on an abatement strategy. The philosophy of these Guidelines is that abatement is safe if:

A. Workers are properly protected;
B. The unit is unoccupied or occupants are protected;
C. Containment is in place during abatement; and,
D. Units are cleaned well enough to meet re-occupancy clearance criteria.

7.3 Abatement Strategies

The three general strategies for lead paint abatement are:

- Replacement
- Encapsulation
- Paint removal

A planner should understand the advantages, disadvantages, and costs of each and consider all of them in planning for abatement. In many instances, it may be necessary to use more than one of these strategies in a single housing unit. In general, these Guidelines do not consider any of these three strategies to be preferable to the others; each has its strengths and weaknesses. This section presents the advantages and disadvantages of the major types of abatement strategies (see table 7.1). For example, there is no question that replacement and encapsulation generate less lead dust than paint removal, but this advantage, important for worker safety and cleanup, must be balanced against disadvantages such as higher cost. The strategy that makes sense for each PHA will depend on a number of factors, which are discussed later in this chapter.

7.3.1 Replacement

Replacement means removing components (such as windows, doors, and trim) that have lead-painted surfaces and installing new components free of lead-containing paint. Replacement can be done on many exterior and interior components, but not for most walls, ceilings, and floors. Replacement is a permanent solution and also offers the following other advantages:

- Replacement easily allows the unit to meet post-abatement clearance standards.
- This method may integrate well with renovation and modernization projects.
- It may provide increased energy efficiency (for example, when replacement windows are more energy efficient than the original windows).
- Replacement allows for the upgrading of components.
- No lead residue is left behind on surfaces.

The disadvantages of replacement as an abatement strategy are the following:

- The cost is high if replacement is done outside the context of a large-scale rehabilitation project.
- Replacement components may be of lower quality than the original components.
- Some dust is generated during removal of the components.
- Adjacent surfaces may be damaged (e.g., plaster walls when baseboards are removed).
TABLE 7.1—COMPARISON OF LEAD PAINT ABATEMENT STRATEGIES

<table>
<thead>
<tr>
<th>Abatement Strategies</th>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Replacement</td>
<td>Permanent solution; allows for upgrade; can be integrated with modernization; no lead residue left behind on surfaces; low risk of failing to meet clearance standards.</td>
<td>Replacement component may be of lesser quality than original; replaced components may be high volume and considered hazardous waste; certain installation requires skilled labor.</td>
</tr>
<tr>
<td>Encapsulation</td>
<td>Low dust if surface preparation is minimal; may be faster than some other methods.</td>
<td>May not provide long-term protection; requires routine inspection; may require routine maintenance; qualification critical for durability.</td>
</tr>
<tr>
<td>Paint removal on-site</td>
<td>Allows for restoration; better finished product generally than on-site paint stripping.</td>
<td>High dust generated; lead residue may remain on substrate and may be difficult to remove; potential difficulty in meeting clearance standards and protecting workers; stripping agents are hazardous and require more precautions.</td>
</tr>
<tr>
<td>Paint removal off-site</td>
<td></td>
<td>Lead residue may remain on substrate and may be difficult to remove; damage may occur during removal and reinstallation; swelling of wood, glass, breakage and loss of glues and fillers may occur; hardware left on components may be damaged.</td>
</tr>
</tbody>
</table>

### Appropriate Applications
- Many interior or exterior components; deteriorated components; highly recommended for windows, doors, and easily removed building components.
- Exterior trim, walls, floors; interior floors, walls, ceilings, pipes, balustrades, and some interior trim.
- Restoration projects, especially doors, mantels, easily removed trim; metal railings.

### Inappropriate Applications
- Restoration projects; when historic trust requirements apply; most walls, ceilings, and floors.
- When encapsulated is not appropriate for substrate and substrate condition; see comments.
- Check with manufacturer regarding recommendations for use on various types of wood and metal substrates.
- Check with stripping contractor regarding metal substrates.

### Comments
- Nonstandard replacement components may need to be ordered in advance; demolition may be ordered in advance; demolition may damage adjacent surfaces; may result in increased energy efficiency, e.g., window replacement.
- Must be durable; seams must be sealed to prevent escape of lead dust; safe, effective, and aesthetic encapsulants for interior trim components need to be tested; repainting leaded surfaces and the use of contact paper and paper wall coverings should not be considered for abatement.
- The following are unacceptable methods:
  - Gas-fired open-flame burning
  - Grinding or sanding without HEPA filtration
  - Uncontained water blasting
  - Open abrasive blasting
  - Check with stripping company for timing of work and procedures for neutralizing and washing compounds.

- Reinstallation of certain components requires skilled carpentry.
- A large volume of abatement debris may be generated (see chapter 11).
- Nonstandard replacement parts may require special orders and additional ordering time.

7.3.2 Encapsulation

Encapsulation refers to processes that make lead paint inaccessible by covering or sealing painted surfaces. This strategy is best if it provides relatively long-term protection and does not require routine maintenance to ensure the integrity of the encapsulant. Methods currently exist to encapsulate interior and exterior walls, pipes, exterior and some interior trim.

If surfaces are peeling or deteriorating and scraping is necessary prior to encapsulation, even this method will produce lead dust and debris. If encapsulation is being used over a surface covered with intact paint, little dust is generated and therefore minimizes cleanup and waste disposal problems. Encapsulation may be faster than other methods.

Encapsulation is a temporary measure since the property will eventually be leveled and protections will be needed at that time to ensure that the lead does not harm human health or the environment. Nevertheless, encapsulation may protect occupants from exposure to lead for a long time in units that are likely to remain standing for an extended period. Encapsulation is particularly attractive for large surfaces such as walls, ceilings, and floors, due to the potential ease of containment, cleanup, and protection of adjacent units and the environment.

The durability of some encapsulating materials such as gypsum dry wall and exterior siding is well known. Quality installation of these materials, however, requires skilled workers and may be more expensive than other forms of encapsulation. Seams must be sealed to prevent the escape of lead dust. Encapsulants require periodic inspection, and may require routine maintenance. Only encapsulants that have been demonstrated to be durable, impregnable to young children, vermin-proof and fire-resistant should be used.

The following materials should never be used as encapsulants:
- A new coat of paint or primer.
- Paper wall coverings.
- Contact paper.

Documentation of encapsulation is important because of the potential for exposures to underlying lead-based paint during maintenance and future renovation activities and eventual demolition. Problems may also arise during future lead paint inspection activities because encapsulated lead paint can be detected by on-site x-ray fluorescence testing methods.

7.3.3 Paint Removal

Paint removal means stripping the lead paint from the surfaces and components. There are two types of paint removal: off-site and on-site. Both methods provide the advantage of allowing restoration.

7.3.3.1 Off-site Paint Removal

For the purposes of these Guidelines, off-site chemical removal means the stripping of lead paint from a building component at the facilities of a professional paint stripping operation. The stripping is done in special chemical tanks. Some considerations are the following:
• The quality of the finished product (off-site removal generally produces a better product than on-site removal)
• The cost of removal, treatment, and reinstallation
• Possible damage to components or adjacent surfaces during removal and reinstallation of the components, and to hardware left on components during removal
• Lead residue remaining on the substrate, which makes components difficult to handle and clean
• Possible swelling of some components, which may make reinstallation difficult

7.3.3.2 On-site Paint Removal. All on-site paint stripping methods/materials are potentially hazardous and should be used with care. The following aspects of this method must be considered:
• On-site removal does not require highly skilled labor.
• Some solvent-based chemical strippers are flammable. They require ventilation and may contain toxic substances.
• Caustic chemical strippers can cause skin and eye injuries if not used properly. Also, the high pH of caustic strippers may require that they be treated as a hazardous waste, regardless of the lead content (see chapter 11).
• Heat guns may pose a potential fire hazard if not used carefully. Heat guns generate noxious organic vapors which are formed from the thermal decomposition of the paint film.
• Lead residue may remain on the substrate and may be difficult to remove.
• Dry scraping generates large amounts of dust and therefore may require more extensive worker protection methods and containment and extra cleanup to achieve compliance with clearance standards.

7.4 Factors to Consider in Selecting an Abatement Strategy

PHAs will have to consider a number of factors in selecting an abatement strategy or set of strategies. The “right” approach will differ for each abatement project.

7.4.1 Cost and Budgetary Factors

An obvious constraint for many PHAs will be cost. The total budget for an abatement project must include costs for worker protection, containment, occupant relocation, and cleanup and disposal. A number of factors affect these total costs:
• The need for skilled labor. Especially in areas where skilled construction labor is in short supply, it will be costly to use methods that require skills such as window replacement, carpentry (to rebuild window frames and sills), and putting up dry wall.
• The length of the abatement process. The longer an abatement project takes, the more it costs. This is especially true if the PHA is paying for alternative housing (e.g., a hotel) for displaced tenants and storage of tenants’ belongings during abatement.
• The need to take additional protective measures. Use of dust-generating methods may increase costs if it becomes necessary to take additional steps to ensure protection of workers and proper containment.
• The need for repeat cleanup to meet dust clearance standards. Use of dust-generating methods may increase costs if they prove difficult to meet reoccupancy clearance criteria without repeated cleanups.

7.4.2 Overall Housing Condition

Anyone planning to undertake lead-based paint abatement must consider the overall condition of the housing (e.g., grossly substandard, substandard, or well maintained). Replacement may be the strategy of choice for deteriorated housing if the building components are not salvageable. In substandard housing, substrates may be too deteriorated to support encapsulation or enable paint removal. For example, a wall that is structurally unsound may not support an encapsulating system that uses framing or direct bonding agents.

7.4.3 Components, Substrate Materials, and Their Condition

In some cases, the specific component and its state of repair will dictate the abatement method. If a window is deteriorated and non-functioning, replacement should be the abatement method. An analysis of the condition and type of substrate material in a dwelling unit is necessary when considering removal and encapsulation methods. For example, caustic chemicals would not be a good choice when removing paint from aluminum substrates because they dissolve the aluminum.

7.4.4 Context of Abatement

When abatement is done in conjunction with modernization or renovation, replacement has obvious advantages. Many of the same activities (e.g., window replacement) would already be planned. However, there would still be substantial additional costs for worker protection, containment, and cleanup.

Replacement is a less attractive strategy from a cost standpoint when only one or a few units are being abated and little or no other rehabilitation is otherwise being undertaken for those units. This would be the case, for example, when a single unit or scattered site dwellings are being abated because it houses or will house a child with an elevated blood lead level.

Chapter 8: Worker Protection

8.0 Introduction

Any lead-based paint abatement project, regardless of the methods used, can expose workers to lead and other chemical and physical hazards. The most effective way to protect workers is to minimize exposure through the use of engineering controls and good work practices, and not to rely solely on a respirator program. PHA workers and contractors should be aware that levels of exposure to lead and other chemicals during abatement activities are not well-documented, but that lead poisoning in workers performing lead-based paint abatement procedures has been well documented. Most of these cases are the results of improper abatement methods and poor work practices used during abatement. If exposures reach hazardous levels, an appropriate worker protection program should be implemented.

The employer of abatement workers is responsible for the development and implementation of worker protection programs, which are essential to minimizing the workers’ risk of lead exposure. Lead-based paint abatement projects vary in their scope and potential for exposing workers to lead and other hazards. Many projects may involve limited abatement, such as the removal of a few interior doors. Others may include substantial removal of all lead-based paints in large housing developments. The PHA should therefore consult a qualified consultant to develop and implement an appropriate worker protection program. Although the following recommendations are for the development of a worker protection program for lead-based paint abatement activities, some of those provisions may also apply to other workers who may encounter intermittent exposures to lead-based paints.

Federal standards require implementation of specific provisions for the control of lead exposure, such as airborne monitoring, medical surveillance, and the medical removal of workers although the OSHA standard does not apply to construction
Workers. At least two states (Maryland and Massachusetts) have modified the Federal lead standard specifically for workers in the construction trades.

The following guidelines for the development and implementation of a worker protection plan are intended to provide at a minimum protections developed by the Occupational Safety and Health Administration (OSHA) for occupational exposure to lead. These Guidelines should be implemented as necessary and appropriate, taking into account the circumstances and levels of exposures in each case. HUD, NIOSH and OSHA will continue to consult following the issuance of this document in order to provide more specific guidance on the appropriate measures to be taken for lead-based paint abatement. Further guidance will be issued in the future. In light of recent research on the adverse health effects associated with exposure to lead in adults (see chapter 1), these guidelines may not ensure complete protection, particularly for women in their childbearing years.

Employers should consider including as necessary, the following basic elements (discussed in sections 8.1 through 6.0) in worker protection plans.

Mandatory worker education and training (See section 5.7);
Exposure monitoring;
Engineering controls and good work practices;
Medical surveillance and provisions for medical removal;
Protective clothing and equipment;
Respiratory protection program; and
Recordkeeping.

8.1 Exposure Monitoring

Exposure to lead in the air can be monitored by measuring the concentration of lead in the breathing zones of workers. Exposure monitoring is typically practiced in general industry, but not usually in construction settings where exposure to dust generated from lead-based paints may occur. The monitoring practices used in industrial settings are not necessarily adequate for, or applicable to, all abatement work. Abatement procedures may be short- or long-term and may create widely varying lead exposure concentrations depending on the tasks performed.

Because of concerns about possible adverse health effects at low exposure concentration and the uncertainty about the relationship between airborne and blood lead concentrations, employers should provide respiratory protection and protective clothing if workers could be exposed to hazardous levels of airborne lead. Because these Guidelines recommend use of respiratory protection and protective clothing where workers could be exposed to hazardous levels, exposure monitoring is not needed for its traditional purpose of selecting appropriate worker protection (See section 6.3.2, Pilot Abatement Projects).

There are two specific abatement situations in which exposure monitoring may be necessary: Exposure monitoring may be appropriate in conjunction with certain pilot abatement projects (see section 6.3.2). In particular, exposure monitoring should be used if the PHA or contractor is attempting to determine whether abatement can be conducted without full respiratory protection and use of protective clothing. As discussed in section 6.3.2, full worker protection can be reduced only when pre-cleaning surface dust levels meet the clearance levels discussed in section 10.4.3. Exposure monitoring should also be used when trying experimental abatement methods for which exposures are not well characterized, particularly methods known or suspected to generate lead dust or other harmful air contaminants.

Second, employers should consider undertaking exposure monitoring whenever a worker has an increased blood lead level which suggests that excessive exposure may be occurring and immediate action is needed to identify and remedy the problem. Additional exposure monitoring can help identify sources of exposure and the need for modifying abatement practices, including the need for additional engineering controls to reduce exposure. Since respiratory protection is necessary for all workers exposed to hazardous levels of dust generated from lead-based paints, an increase in blood lead level could indicate a respiratory protection failure including the improper use of respirators, or poor work practices (e.g., ingestion, inhalation of lead from contaminated clothes or hands).

Exposure monitoring results should be reviewed by the person or firm hired to develop the worker protection plan and worker education program. The worker protection specialist will have to evaluate the exposure monitoring results in light of the circumstance (whether and what kind of respiratory protection was in use) and recommend an appropriate course of action.

8.2 Engineering Controls and Good Work Practices

The most effective way to protect workers is to minimize exposure through the use of engineering controls and good work practices and not to rely solely on a respiratory protection program. In addition, engineering controls and good work practices help protect the environment and the occupants of adjacent units, and they make cleanup an easier task (see chapter 10).

Specific engineering controls and work practices that directly affect exposures are described in other sections of these Guidelines as follows:

• Following the good personal hygiene practices described in section 5.7.2;
• Prohibiting unacceptable methods of abatement such as open-flame burning and machine sanding without attached HEPA filtration;
• Providing on-site washing facilities and "clean rooms" for changing clothes;
• Shutting down of forced-air systems and sealing of all intake and exhaust points in the work area and providing alternative sources of heat if necessary;
• Daily cleanup procedures; and
• Spray misting of dry debris before cleanup and prohibition of dry sweeping.

8.3 Medical Surveillance and Medical Removal

Medical surveillance, which consists of biological monitoring of worker blood lead levels and medical examinations, should be implemented before employees are exposed to hazardous levels of lead. One purpose of biological monitoring is to establish baseline blood lead levels in workers and to detect early increases in worker blood lead levels. Medical examinations including collection of blood samples, must be performed by, or be under the supervision of, a licensed physician, preferably one with board certification in occupational medicine. Blood lead testing must be performed only by laboratories accredited by the Occupational Safety and Health Administration (OSHA). Appendix 8 lists blood lead testing laboratories approved by OSHA. All results must be provided to workers along with an explanation.

The following subsections describe the current practices for medical surveillance and medical removal of workers exposed to lead. However, recent research indicates that adverse health effects may occur at lead exposure concentrations below prescribed occupational standards.

8.3.1 Preplacement Medical Examination

Before abatement work and before respiratory fit testing, workers must be referred to a physician for a medical examination. In addition to specific tests...
Periodic Medical Examination

A periodic medical examination shall be provided at least annually to workers exposed to hazardous levels of lead. OSHA standards require that annual examinations be given to all workers for whom a blood sampling test conducted anytime during the preceding 30 months indicated a blood lead level at or above 40 µg/dl. The followings conditions may shorten the interval between examinations and indicate the need for special medical tests:

- Whenever blood lead levels exceed 30 micrograms per deciliter (30 µg/dl) of whole blood;
- As soon as possible after a worker notifies the employer that he or she has signs or symptoms associated with lead toxicity;
- Whenever the worker desires medical advice concerning the effects of current or past exposure to lead;
- Immediately upon notification that a worker is pregnant; and
- Before restarting work following medical removal.

Periodic medical examinations should include the following:

- Updates of medical and occupational histories. These shall include a description of the types of work performed, any reports of signs and symptoms that may be associated with work activities, and a review of any exposure data. This information shall be obtained from an interview with the worker and from records maintained by the employer; and
- A comprehensive physical examination, including all tests specified in section 8.3.1.

8.3.2 Periodic Medical Examination

8.3.3 Special Provisions for Blood Lead Monitoring

Blood lead must be monitored when the following conditions occur:

- Before work assignment for each worker potentially exposed to hazardous levels of lead;
- At least every 2 months during the first 6 months, and every 6 months thereafter;
- At least every 2 months for each worker whose last blood analysis indicated a lead level greater than 40 µg/dl per OSHA standards or 25 µg/dl which has been recommended by NIOSH. Continue testing at least every 2 months until two consecutive tests (e.g., 7 days apart) indicate blood lead levels less than 40 µg/dl (OSHA) or 25 µg/dl (NIOSH);
- At least monthly when the worker has been medically removed (see Section 8.3.4); and
- At termination of employment.

8.3.4 Provisions for Medical Removal

Medical removal is the temporary removal of workers from any job involving a continued potential for lead exposure. Medical removal should take place when the following conditions arise:

- Whenever the worker’s blood lead level is greater than 50 µg/dl (OSHA) or 30 µg/dl (NIOSH);
- Whenever the average of the last three blood tests indicates a blood lead level greater than 25 µg/dl (OSHA’s standards do not require this); and
- Whenever indicated by a physician on the basis of other medical evidence.

Workers can return to their former jobs when two consecutive blood tests 7 days apart indicate that the worker’s blood lead level is less than 25 µg/dl. If removal was due to medical determination, a physician must approve the return to work.

8.4 Protective Clothing and Equipment

Unless shown by the pilot abatement not to be necessary (see section 6.3.2), protective clothing and equipment must be provided to all workers to assure that lead dust is not transferred from the abatement work area to other work areas or environments (e.g., homes and vehicles), during the pilot abatement project. The pilot abatement will determine whether or not special clothing and equipment will be required during the remainder of the abatement process to protect against lead poisoning. Specific types of protective clothing and equipment may also be required to prevent skin contact with hazardous chemicals (e.g., solvents and caustics) that may be used during abatement.

The employer is responsible for:

- Providing the appropriate protective clothing and equipment daily;
- Providing a clean changing area;
- Providing water for washing hands and face and providing shower facilities if possible;
- Enforcing the removal of protective clothing at the end of each work day and before eating, drinking, or smoking;
- Disposing of or laundering work clothes appropriately; and
- Informing the worker about proper maintenance of clothing and equipment.

8.4.1 Types of Protective Clothing and Equipment

The following protective apparel may be required during abatement, cleanup, and disposal:

- Gloves
- Hair protection
- Eye goggles and face shields
- Respirators and respirator cartridges
- Protective coveralls
- Shoe covers

Protective coveralls and shoe covers constitute basic worker protection gear and should be worn at all times. Disposable items can be either breathable or non-breathable. Non-breathable coveralls should not be used when the possibility of heat stress exists. The possibility of heat stress and its signs and symptoms should be discussed with all workers.

Glove material should be appropriate for the specific chemical exposure (e.g., solvents and caustics). Cotton gloves provide some protection against the contamination of hands and cuticles with lead dust. Paper suits and shoe covers are not appropriate for wet abatement processes.
8.4.2 How to Use Protective Clothing and Equipment

Workers should follow these procedures before work begins:

- Change into work clothing and booties in the clean section of the designated changing area;
- Use work garments of appropriate size and use duct tape to reinforce their seams (e.g., underarm, crotch, and back);
- Store any clothing not worn under protective clothing in the designated changing area; and
- Select and wear appropriate protective gear, including respirators and hard hats, before entering the work area. Clothing that is appropriate for existing weather and temperature conditions should be worn under the protective clothing.

Workers should follow these procedures upon leaving the work area:

- Remove respirators last; and
- Wash hands and face.

Workers should follow these procedures upon finishing work for the day (in addition to procedures described above):

- Place disposable coveralls and shoe covers with the abatement waste;
- Place clothes for laundering in a closed container;
- Clean protective gear, including respirators, according to standard procedures;
- Wash hands and face again; and
- If shower facilities are not available at the work site, workers should shower immediately at home and wash hair.

8.5 Respiratory Program Requirements

OSHA regulations outline the requirements for a minimally acceptable program of respiratory protection (29 CFR 1910.134). More stringent State and local requirements may also apply. The PHA or abatement contractor must therefore determine any additional local or State requirements for respiratory protection programs.

When respirators are provided, the employer must establish a respiratory protection program in accordance with the OSHA regulations (29 CFR 1910.134) and workers must undergo respirator fit testing. A minimally acceptable respiratory protection program must include the following elements:

- Establishment of written operating procedures governing the selection and use of respirators;
- Selection of respirators on the basis of hazards to which the worker is exposed;
- Training of workers on the limitations and use of respirators, including fit testing;
- Assignment of respirators to individual workers for their exclusive use;
- Daily cleaning and disinfecting of respirators;
- Storage of respirators in a convenient and sanitary location;
- Inspection of respirators during cleaning for worn and deteriorated parts;
- Surveillance of work area conditions and degree of worker exposure or stress;
- Evaluation of program effectiveness;
- Medical examination of workers by a physician before fit testing and annually thereafter; and
- Use of MSHA/NIOSH-approved respirators.

8.5.1 The Use of Respiratory Protection

Respiratory protection programs are always necessary when workers are exposed to hazardous levels of lead as may be demonstrated in the pilot abatement projects. PHAs and their contractors should be aware that as of this printing, the airborne exposures associated with various methods and phases of abatement are not well documented. Until further research has better defined airborne exposure monitoring during lead-based paint abatement and the health effects of lead exposures, respirators must be worn by all workers potentially exposed to hazardous levels of lead. This practice should supplement the continued use of engineering controls and good work practices.

8.5.2 Respirator Selection

Respirators should be worn whenever the potential exists for hazardous lead exposure during the abatement of lead-based paints. Under most work conditions, workers can use a half-mask air-purifying respirator equipped with high-efficiency filters (HEPA). A HEPA filter is one that is at least 99.97% efficient against mono-dispersed particles that are 0.3 um in diameter or larger. In the absence of hazardous contaminants other than lead, the half-mask, air purifying respirator with HEPA filters should be adequate to maintain blood levels below 25 ug/dl during most abatement activities. However, the selection of the appropriate respirator type is always contingent on identification of the contaminants in the workplace and their respective airborne concentrations.

If exposure monitoring indicates airborne exposures to other contaminants (e.g., solvents), re-evaluation of the respirator type is warranted. A re-evaluation of the respirator program and other protective measures are also indicated when the user's blood level exceeds 25 ug/dl or when the worker demonstrates a continued increase in blood lead levels.

If for any reason a worker's breathing becomes difficult while wearing a respirator, he or she should leave the work site to change respirator cartridge(s). Respiratory cartridge(s) should be changed according to the manufacturer's instructions, at least every 7-10 days, or whenever the wearer has difficulty breathing.

8.6 Recordkeeping

The purpose of recordkeeping is to comply with any applicable local, State, and Federal regulations, and to document ongoing exposure and medical monitoring of workers. The abatement contractor of PHA, if force account labor is used, is responsible for maintaining written records of exposure monitoring, medical surveillance, and medical removal.

8.6.1 Exposure Monitoring Records

Exposure monitoring records should contain the following information:

- Dates, number, duration, location, and results of each sample taken;
- A description of the sampling procedures (appendix 5);
- A description of the sampling and analytical methods used and evidence of their accuracy (appendix 5);
- The type of respirator worn;
- The worker's name, social security number, and monitored job classification; and
- Environmental variables that could affect measurement of the worker's exposure (e.g., temperature and humidity).

Exposure monitoring records should be maintained by the employer for 40 years or for the duration of employment plus 20 years, whichever is longer.

8.6.2 Medical Surveillance Records

Medical surveillance records shall include:

- The worker's name, social security number, and a description of duties;
A copy of the physician's written opinions;
Results of any airborne exposure monitoring done for that worker and the representative exposure concentrations supplied to the physician;
Medical complaints related to lead exposure;
The employer or the examining physician keeps:
• A copy of the medical exam results, including medical and work history and a description of laboratory procedures. The employer may receive only a summary of medical exam results for their records.
• A copy of standards or guidelines used to interpret the test results.
• A copy of the results of any biological monitoring.
Medical surveillance records should be maintained for 40 years or for the duration of employment plus 20 years, whichever is longer.

9.6.3 Medical Removal Records
Medical removal records should include the following information:
• The name and social security number of the worker;
• The date of each occasion that the worker was removed from current exposure to lead;
• The date on which the worker was returned to his or her former job status;
• A brief explanation of how each removal was or is being accomplished; and
• A statement indicating whether or not the reason for the removal was an elevated blood lead level.
These records should be maintained by the employer for at least the duration of any worker's employment.

Chapter 9: Abating The Lead-Based Paint Hazard

9.0 Introduction
This chapter provides assistance to PHAs, contractors and others who are required to conduct abatement projects. In the pages to follow, guidance is given on site preparation, containment, controlling off-site dispersal of lead dust and debris, selection of abatement methods, occupant protection and administrative activities such as reporting and record keeping.

This chapter does not provide detailed instructions for general construction practices. It does provide details that are unique to the abatement process. All abatement work should be done in accordance with all applicable building and fire codes. Some documents may have to be sealed and registered by the engineer/architect/designer.

It is important that the PHA keep in mind that all of the steps outlined in this chapter may not be necessary in their entirety if:
• Abatement work is of a very limited scope (e.g., limited work in one room);
• Abatement and cleanup work for the unit can be accomplished in one 8-hour working day;
• The unit is still habitable in a practical sense (e.g., family has safe access to bathrooms and kitchens); and
• The work area can be sealed.

9.1 Occupant Protection Measures
9.1.1 Occupants of an Abated Unit
If the surface of lead paint is to be broken as part of a lead abatement project, under most circumstances occupants and their belongings must be temporarily relocated. Relocation is the responsibility of the PHA. Relocation of occupants and their belongings may not be necessary if the four conditions listed in Section 9.6 exist. In the case of an abatement exclusively on the exterior of a building, residents and their belongings may not need to be relocated if the interior environment can be adequately sealed to assure that no lead dust enters the interior and safe entrance and egress can be assured.

Every resident who has received prior notice is responsible for placing all personal items in closed, easily handled containers. Before a contractor starts a lead abatement project, the room to be abated last should be designated. This is the room where the furniture will be stored. It will be sealed after it has been abated and filled with furnishings. Occupants and their belongings can be returned to the abated unit only after the unit has successfully met post-abatement clearance standards.

9.1.2 Other Occupants of Multifamily Units
Whenever units and or common areas within an occupied multifamily dwelling are being abated, the PHA must notify all residents within the building. The notice should consist of the following:
• Start-up date
• Areas to be abated
• A warning to heed caution signs
The warning sign should read as follows:
"CAUTION LEAD HAZARD—DO NOT ENTER WORK AREA UNLESS AUTHORIZED"

9.2 Site Preparation
Site preparation prior to abatement consists of the following steps:
• Posting warning signs at entrances and exits to work area (see above)
• Correcting conditions that can impede abatement
• Correcting conditions that can cause abatement to fail
• Removing or protecting all belongings and furnishings of occupants
• Initiating containment procedures to protect surfaces and contain and control lead dust and debris

9.2.1 Repair Work Prior to Abatement
Typical pre-existing conditions that can impede abatement or cause it to fail include the following:
• Water leaks of all types—roof, plumbing, windows
• Lack of heat in all or parts of dwelling
• Lack of electricity and water
Water leaks must be corrected prior to abatement regardless of the method of abatement. Uncorrected water leaks can cause future exposures when encapsulating materials fail and underlying lead paint deteriorates. Moisture can also cause paint on stripped surfaces to fail, exposing occupants to lead residue that may have remained on the substrate after stripping by heat, caustic chemicals, solvents or scraping.

Inadequate heat after abatement may lead to failure of encapsulants and paint. Therefore, heating systems must be repaired prior to occupancy. Prior to abatement, forced air systems should be shut down and sealed to prevent lead contamination from abatement to other areas. Radiators that have been protected/covered prior to abatement may not be usable during abatement. Chemical stripping processes are slowed at low temperatures, so provisions should be made for other methods of providing heat. Contractors should consider use of electric heaters. Adequate ventilation must be provided if portable flame heaters are brought onto the work site. Volatile organic paint removal chemicals should not be used near portable flame heaters.

A lack of electricity on the site can slow work because of inadequate lighting and limit the methods available for on-site paint removal. Owners should have the electricity restored or ask the contractor to provide generators. On-site running water is necessary for the personal hygiene of workers, cleanup during and after abatement, and certain abatement methods (e.g., caustic chemical). If water service has been cut off and cannot be restored, water should be brought to the site.
9.3 Containment

Fasten plastic sheets; at least 6 mil thick; needed for containment: personal possessions from damage. Measures should be used only as needed.

Lead-painted surfaces, containment abatement does not break or disturb be taken as explained below. If, in the case of a common hallway, one side would be designated as the work area and the other the safe passage area. Safe passage areas are created by building frames and attaching 6-mil polyethylene sheets. If a safe passage cannot be created and alternative entrances and exits do not exist, then abatement in common areas should be conducted between established and posted hours and the work area should be cleaned with a HEPA vacuum at the end of each working day until all surfaces are free of all visible dust and debris. Occupants should be provided with disposable shoe covers for use while in common areas.

9.3.2 Interior Procedures: Common Areas

If a common area is an abatement work area, and there are no alternative entrances and egresses that are located outside of the work area, the contractor should create a protected passage through the common area. For example, in the case of a common hallway, one side should be designated as the work area and the other the safe passage area. Safe passage areas are created by building frames and attaching 6-mil polyethylene sheets. If a safe passage cannot be created and alternative entrances and exits do not exist, then abatement in common areas should be conducted between established and posted hours and the work area should be cleaned with a HEPA vacuum at the end of each working day until all surfaces are free of all visible dust and debris. Occupants should be provided with disposable shoe covers for use while in common areas.

9.3.3 Exterior Procedures

Exterior abatements may generate large quantities of liquid and/or dry waste. If precautions are not taken, this lead can directly contaminate the outside environment and adjacent units. For this reason, uncontaminated water blasting and open abrasive blasting are unacceptable methods of abatement.

Lead in soil and dust is a known contributor to lead poisoning in children. Contractors who do not take proper containment measures and contaminate soil may be required to:
- Test, abate, and dispose of soil contaminated with lead as a direct result of proper or improper abatement.
- Test, clean up, and dispose of lead dust and debris dispersed to the interior environments of adjacent units.

Before beginning to abate lead paint in an exterior work area, a contractor should use the following procedures:

9.3.3.1 For Liquid Waste. Place polyethylene plastic sheeting (6 mils thick) as close to the building foundation as possible.
- Extend the edge of the sheet a sufficient distance to contain the runoff and raise the outside edge of the sheets (e.g., with two by fours) to trap liquid waste.
- Have available appropriate containers to hold liquid waste for later transfer and disposal (see Chapter 11).
- Where seams occur, they must be sealed with tape and edges must be raised (e.g., with two by four framing) and a new section of plastic sheeting and framing should be added as needed.
9.3.3.2 For Dry Waste.

- Place polyethylene plastic sheeting (6 mils thick) as close to the building foundation as possible.
- Extend the sheeting out from the foundation a distance of 3 feet per story being abated with a minimum of 5 feet and a maximum of 20 feet. (It may not be possible to extend sheeting beyond the edge of the nearest sidewalk).
- Weight the sheeting at the foundation and along edges and seams.
- Erect vertical shrouds if constant wind speed exceeds 15 mph or there is visible movement of debris beyond the ground sheeting.

9.3.4 Storage of Liquid and Solid Waste

The contractor must make provisions for the safe storage of waste on-site prior to disposal. For security reasons, waste storage areas must be treated as abatement areas and access restricted. Liquid waste should be collected in drums 55-gallon or smaller and held on-site in a designated secure area such as a room in the work area. Large quantities of solid waste should be stored in covered dumpsters secured behind a security fence to prevent pilferage of such things as windows and doors. These dumpsters and storage containers must have the appropriate hazard labels. Smaller quantities of solid waste should be collected and bagged in 6-mil or double 4-mil plastic bags and stored in a designated secure storage area. Hazardous and nonhazardous waste, as determined by state or local regulations, must be separated. (See chapter 11, for arranging for safe disposal of waste.)

9.3.5 Maintenance of Containment System

In order to produce the safest possible abatement and make cleanup easier, the containment system must be kept intact for as long as it is needed. All tears and breaks in the containment system should be repaired as they occur, otherwise all the benefits of containment are lost. In addition to routine repairs, the abatement contractor is responsible for inspecting the containment system on a daily basis or more often as needed to ensure its integrity. Damaged floor sheeting should be covered with new layers and not removed. Contractors must be particularly careful to ensure that the bottom layer of floor covering is not torn or broken. Damaged shrouding (for exterior abatement) may need to be replaced.

9.4 Controlling Off-site Disposal

The previous section described practices for containing lead dust and debris within the work area. But, unless additional control measures are taken by the contractor, this contained lead dust and debris will be dispersed to non-work areas, adjacent units, the outside environment, and workers' cars and homes. Basic control measures to minimize the dispersal of lead dust and debris from the work area are:

- Control and limit access to the abatement work areas.
- Limit tracking of dust and debris.
- Implement a program of ongoing cleanup.

9.4.1 Limiting Access

To avoid unnecessary exposures to lead dust and debris, the abatement contractor must limit access of nonworkers to abatement work areas. The abatement site supervisor is responsible for enforcing this limited access. Only the persons included in the following list should enter the work area prior to satisfactory clearance testing:

- The contractor and his employees;
- State, county, or local enforcement officials or their designees;
- An inspector who represents the PHA with a security interest in the building and
- A Federal, State or local official, or his/her designee, engaged in research on lead.

9.4.2 Limiting Tracking of Dust and Debris

All persons entering a work area during a lead-abatement project that involves breaking or disturbing lead-painted surfaces must wear disposable shoe covers which should be removed upon leaving the work area and placed with abatement waste. Any persons entering a work area during lead paint removal activity (e.g., by heat gun, scraping, HEPA sander, or chemical) or during replacement and during the cleanup process should also wear appropriate respirator protection (see chapter 8).

9.4.3 Program of Ongoing Cleanup

An important part of the control of lead dust and debris is implementing a program of ongoing cleanup in the work area. The frequency and intensity of cleaning will be the greatest with on-site paint removal methods and methods that create a lot of construction debris. Ongoing cleanup should include the regular cleaning of all tools, equipment, and worker protection gear to minimize worker exposure and the risk of transferring lead to other job sites.

9.5 Selection of Abatement Procedures

After consideration of the relative merits or replacement, encapsulation, and paint removal strategies and the other factors laid out in chapter 7, the PHA and contractor must choose specific abatement methods or combinations of methods for specific lead-painted components.

Table 9.1 illustrates which abatement strategies can be used on different components. In most cases, more than one option is provided for abating any given component to accommodate various contexts and practical considerations.

As with chapter 7, this chapter does not specify what methods must or should be used. Instead, the sections that follow explain the strengths and weaknesses of different abatement methods as applied to different components and substrates.

<table>
<thead>
<tr>
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<th>Remove paint</th>
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### Table 9.1—Appropriate Abatement Methods by Interior Component—Continued

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### Table 9.2—Appropriate Abatement Methods by Interior Component

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<tr>
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<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Window components</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jambs</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Sashes</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Sill</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Stop/parting</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Well</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Window units</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### 9.5.1 Removal Methods

All substrates abated by paint removal methods should be repainted and sealed. Compared to flat paint, high gloss lead-free paint makes it easier to control dust because it provides a smoother, easier surface to clean. 

#### 9.5.1.1 Heat-Based Removal Methods

Because high levels of airborne lead can be produced and dispersed by heat guns, respirator protection is required. At the temperature expected to occur during paint removal operations with most currently available heat guns, some lead fume is likely to be generated. Heat guns should not be operated in excess of 700°F.

#### 9.5.1.2 On-site Chemical Removal Methods

On-site chemical removal methods may require multiple applications depending on the number of layers of paint. Caustic and solvent-based chemicals should not be allowed to dry on the lead-painted surface. If drying occurs, paint removal will not be satisfactory and the potential for creating lead dust in the process will be increased. In particular, caustic chemicals that require a plastic covering are difficult to rehydrate without creating lead dust because the plastic covering must first be removed. When the plastic covering is applied, care should be taken to cover and seal the edges and ends to prevent drying.

Generally, chemical paint removal methods work best on metal substrates.
Methods used as a finishing method after HEPA filtered vacuum should not be scraping or any other method of lead dust the remains of surfaces« protect workers from exposure to any marks or other permanent marking components to remove any lead not protect against this hazard. Several are washed, worker protection measures dipping tanks parts themselves and surrounding care should be taken to minimize damage to the building component parts at the extent to which the fumes might linger effects and the uncertainty over the extent to which the fumes might linger after re-occupancy.

9.5.1.3 Off-site Chemical Removal Methods. For the purposes of these Guidelines, off-site chemical removal means the stripping of lead-paint from building component parts at the facilities of a professional paint stripping operation, where stripping of the paint takes place in chemical tanks. Components should be removed carefully to minimize damage to the parts themselves and surrounding surfaces. Prior to abatement, contractors should:

- Determine size limitations of the dipping tanks
- Arrange for same-day service for components needed for the units' security
- Discuss with the dipping subcontractor the procedures for washing components to remove any lead residues left behind on stripped surfaces.
- Label all components with punch marks or other permanent marking systems to facilitate reinstallation.
- Even after the stripped components are washed, worker protection measures should continue to be implemented during handling and reinstallation to protect workers from exposure to any lead dust the remains of surfaces.

9.5.1.4 Mechanical Removal Methods. Machine sanding without a HEPA filtered vacuum should not be used as a finishing method after scraping or any other method of abatement. When using a sander equipped with a HEPA filtered vacuum, follow the manufacturer's operating instructions and instructions for care and maintenance. The potential for production of lead dust increases when the sanding disk is wider than the surface being abated (e.g., a door stop) because the sanding shroud is not always in contact with the surface. The HEPA sander is recommended only for limited surface areas. Its use is most appropriate on flat surfaces such as jambs/stair risers.

The two acceptable removal methods for exterior surfaces are contained water blasting and abrasive blasting with a vacuum arrangement. When using abrasive blasting with vacuum on exterior surfaces, care should be taken that the configuration of the heads on the blasting nozzle match the configuration of the substrate so that the vacuum is effective in containing debris.

9.5.2 Replacement of Components

In performing removal work prior to the installation of new components, workers will generate lead dust. One method of dust control is misting or wet spraying of components and surrounding areas before removal work is started. Whenever a new component is installed, the contractor should seal seams and gaps with caulking.

9.5.3 Encapsulation of Components

Well prepared surfaces are important to the durability and integrity of the encapsulating system. For example, peeling lead paint on walls should be removed before encapsulation. Misting of peeling paint before scraping to prepare for encapsulation is an inexpensive and effective method for reducing the amount of lead dust generated during this process. Surfactants (wetting agents) may be added to the water to facilitate cleanup.

To prevent a bellows effect, paneling should be glued as well as nailed to the substrate. All seams must be sealed or caulked to prevent the escape of lead dust. It is a common construction practice to glue and then nail gypsum drywall. Flexible wall coverings should be installed with invisible seams and tight enough to be child-proof. For very high wear areas, pre-grouted 4 ft x 4 ft panels of tile are appropriate encapsulants.

Contractors should consider the use of breathabe membrane barriers or sheathing when encapsulating exterior surfaces with aluminum siding. An effective encapsulant for floors is underlayment that is glued and fastened with screws to the lead painted floor. Carpeting or vinyl tile can then be installed as a finishing step over the underlayment.

Contractors and PHAs may want to consider encapsulating wall and baseboard surfaces that are difficult to reach. These surfaces are frequently found in kitchens and bathrooms where plumbing and fixtures make access to surfaces difficult. PHAs should be aware of the need to inspect and maintain encapsulating systems to ensure continued protection from lead exposure.

9.6 Recordkeeping and Abatement Management

The PHAs are required to certify that it will abate and has abated LBP hazards where identified. See document entitled Instruction on How to Integrate LBP into the CIAP Process for Certification Forms. The records for each abated unit should clearly describe in nontechnical language where the lead was found and how it was abated (Information collection requirements approved under OMB number 2577-0090.). Files that will effectively document the abatement process, at a minimum, should contain the following:

- Complete identification of units receiving abatement
- Results of all testing
- General description of abatement methods
- Results of abatement clearance tests
- Chronology of all project-specific abatement from beginning of planning through final clearance testing and re-occupancy
- Pertinent Federal, State, and local requirements under which abatement was undertaken
- PHAs should retain these records for the life of the annual contribution contract or contact their local HUD Office for guidance on record retention. (Information collection requirements approved under OMB number 2577-0090.)

A suggested format to assist in recording the management of work in progress is given below in table form. The table shows the user where any given phase of the abatement job is on a given day. The top row consists of apartment or house numbers. The second row is the heading for the workday (i.e., the first day (1) on the job, the second day (2), etc.) of the job to be entered below. The column below the word BLOCK indicates the separate phases of the job. The numbers on either side of the slash (/) are workdays of the job on which the phase at the left of each row began in/ the unit and finished /out of the unit. For example, presuming
Chapter 10: Cleanup

10.0 Introduction

The goal of any lead-paint abatement project is to provide an environment relatively free of lead contamination. One of the goals of pilot abatement projects (section 6.3.2) is to help the PHA decide how much cleanup is required to meet clearance criteria. This chapter addresses, in detail, the steps involved in cleanup.

The following checklist is a summary that should be consulted prior to a cleanup associated with LBP abatement:

- Do you understand the critical importance of cleanup in a lead-paint abatement project?
- Have you scheduled both the daily and final cleanups properly and coordinated them with the other participants in the abatement process?
- Have you obtained the most effective cleaning equipment and materials?
- Do you know how to operate and maintain special cleaning equipment, and do you have directions for the proper use of all cleaning materials?
- Have you carefully studied the step-by-step procedures for both the daily and final cleanups?
- Have you made sure your workers are properly protected during the cleanup processes?
- Have you arranged for surface dust testing at the proper times and for related visual inspections?
- Have you made provisions to contain and store potentially hazardous debris properly?
- Have you properly painted or otherwise sealed all appropriate surfaces?
- Have you kept appropriate records to document your role in the abatement project?
- Have you and your workers been trained and certified (if required by local/State regulations) for lead-paint abatement work?
- Do you understand the clearance criteria to be met prior to re-occupancy?

10.1 Developing a Comprehensive Plan for Cleaning and Clearance

Cleaning is an integral part of the entire lead-paint abatement process. Consequently, users of these guidelines should be aware of cleanup requirements throughout the process, from initial testing and specification preparation to final inspection and clearance certification.

10.1.1 Roles and Responsibilities. It is important that all the major entities with an interest in cleanup be aware of their roles and responsibilities, as detailed below:

- The PHA must understand the importance of cleaning in the LBP abatement process and communicate that importance to the testing agency and/or, the consultant or designer, the abatement contractor, and the occupant.
- The testing agency and/or inspector must realize that the goal of any lead­paint abatement project is a clean living environment. Consequently, the testing program must be carried out in a scientific and comprehensive way so that the achievement of that goal can be certified.
- The designer or consultant must prepare clear cleanup specifications in accordance with the methods and procedures outlined in these Guidelines.
- The abatement contractor must carefully follow the cleaning specifications provided by the designer or consultant.
- The occupant must understand the importance of regular housekeeping and maintenance in ensuring the long-term efficacy of a lead-paint abatement project.

10.1.2 Scheduling. The proper scheduling of the daily and final cleanups ensures that the cleaning is done at the most effective time in the process.

- Daily Cleanup: Most of the abatement methods recommended for use today generate lead dust as a by-product. It is important for the safety of workers as well as the effectiveness of the entire abatement process to minimize the impact of this dust. Early removal of dust from the work area will reduce the potential for recontaminating the property. Consequently, the work area in which active abatement is taking place must be cleaned daily throughout the entire abatement process. The daily cleanup activity should be scheduled for the same time at the end of each workday after active abatement has ceased and sufficient time must be allowed for a thorough and complete cleanup. Under no circumstances should active abatement be proceeding while the daily cleanup is in progress. Completing these daily cleanups will minimize problems with the final cleanup and clearance process.
- Final Cleanup: The process of lead­paint abatement generates lead dust, which becomes airborne and then settles over time. To give any airborne lead time to settle, the final cleanup process should be scheduled to start no sooner than 24 hours after active abatement has ceased. This is a minimum waiting period. If abatement methods have been particularly invasive and aggressive, it may be necessary to wait an additional 24 hour period before starting final cleanup.

10.1.3 Coordination. Cleanup is interrelated to all other main parts of the abatement process. Thus, all persons/firms conducting separate abatement activities in a dwelling must coordinate their activities to ensure a successful cleanup process. Detailed below are the types of coordination that should take place:

- Testing: Final or clearance testing (section 10.2.3.6) determines whether or not the premises are clean enough to be re-occupied after the completion of a lead-paint abatement project. The scheduling of final testing should be coordinated with final cleanup activities to ensure that the testing results provide a valid final cleanliness level.
- Waste disposal: As detailed in chapter 11, regulations governing hazardous waste storage, transportation, and disposal affect both
the daily and final cleanup procedures. The abatement contractor and the disposal contractor should work together selecting containers, storage areas, and debris pickups, to ensure that all relevant regulations are met.

10.2 Cleanup Methods and Procedures

As the market for lead-paint abatement contractors develops, many of the firms who enter this new industry will be general/home improvement contractors. Many of the special cleaning methods and procedures detailed later in this chapter will not be standard operating procedure for these firms. Therefore, the PHA must ensure that they follow the recommended methods and procedures exactly, even though some may appear to be redundant and unnecessary. This is particularly important for the prepainting cleanup of stripped surfaces. All surfaces from which lead-based paints have been stripped will be coated with a residue of lead dust that is very difficult to remove (see appendix 5). Unless cleanup is thorough and complete, large amounts of nearly invisible lead dust can become embedded in the new paint. This lead dust can be remobilized rather quickly if it is present on surfaces subject to abrasion, such as windows. Modifying the methods or skipping steps in the procedure can adversely affect the efficacy of the entire lead-paint abatement project. The extent of cleanup necessary should be defined in pilot abatement projects.

10.2.1 Special Methods

There are two basic cleaning methods that, when used concurrently, have proven most effective in lead-paint abatement projects. The dry cleaning method is using a high-efficiency particle air (HEPA) vacuum to clean all the surfaces of a dwelling unit at the conclusion of LBP abatement project. The wet cleaning method is using a high-phosphate detergent to wash all the surfaces of a dwelling unit at the conclusion of LBP abatement project.

10.2.1.1 HEPA Vacuums. HEPA vacuums differ from conventional vacuums in that they contain high-efficiency filters that trap extremely small, micron-sized particles. These filters can filter out particles of 0.3 microns or greater (from a body of air) at 99.97% efficiency or greater. (Recent research and development has resulted in the production of an ultra low penetration air (ULPA) filter capable of filtering out particles of 0.13 microns or greater at 99.9995% efficiency. These ULPA filters are slightly more expensive, and may be less available than HEPA filters.) As mentioned earlier, lead dust tends to break down into extremely fine, micron-sized particles. Vacuuming by conventional means is unacceptable at any time, especially in lead-paint abatement final cleanup, because much of the fine lead dust will simply be exhausted back into the environment. Consequently, the use of a HEPA vacuum is required. Following are procedures for its proper use:

A. Operating Instructions

There are a number of different manufacturers of HEPA vacuums. Although all these HEPA vacuums operate on the same general principle, they may vary considerably with respect to specific procedures. Operators should be sure that the machine they plan to use is the one best suited for the purpose, and they must carefully follow the operating instructions provided by the manufacturer. The machine they are using. If possible, training sessions should be arranged with the manufacturer's representative.

B. Special Attachments Needed

Since the HEPA vacuum will be used to vacuum surfaces other than just floors, operators should have attachments appropriate for use on unusual surfaces. Brushes of various sizes, crevice tools, and angular tools should be produced along with the HEPA vacuum. Using these attachments properly will enhance the quality of the HEPA-vacuuming process.

C. HEPA Vacuuming Procedures

At the conclusion of the active abatement process and according to the schedule discussed earlier in this chapter, all surfaces in the abatement area should be thoroughly and completely HEPA-vacuumed. These surfaces include (but are not limited to) ceilings, walls, floors, windows (sash, sill, well), doors, fixtures of any kind (light, bathroom, kitchen), built-in cabinets, and appliances; this includes not just abated surfaces but also unabated surfaces exposed to lead dust generated by the abatement process. All rooms of the property should be included in this HEPA process, except for rooms that (1) were found free of lead paint and lead dust before the abatement process began, (2) were properly sealed before the abatement process began, and (3) were never entered during the process. Rooms should be vacuumed by starting with the ceilings and working down to the floors. Lead dust removal is not easy. Lead dust adheres very tenaciously, particularly to rough or porous materials such as weathered or worn wood surfaces and masonry surfaces (particularly concrete).

D. Maintenance of the HEPA Vacuum

HEPA vacuums must be properly maintained in accordance with manufacturer's instructions. Operators should use extreme caution when opening the HEPA vacuum for filter replacement or debris removal, due to the high potential for accidental release of accumulated lead dust into the environment. This can occur if the vacuum's seal has been broken and the vacuum's bag is disturbed. Operators should wear a full set of protective clothing and equipment, including appropriate respirators, when performing this maintenance function (see chapter 8). Used HEPA filters and vacuumed debris are potentially hazardous and should be treated accordingly (see chapter 11).

10.2.1.2 High-Phosphate Wash

Detergents with a high phosphate content (containing at least 5% trisodium phosphate [TSP]) have been found to be most effective when used as part of the final cleanup process in a lead-paint abatement project. Because of concern for the impact of high-phosphate detergents on the environment, some states have regulated their use, and some manufacturers have eliminated phosphates from their household detergents. However, high-TSP detergents can usually be found in hardware stores.

Following are the proper procedures for using this product:

A. Read Manufacturer's Instructions

Users of high-phosphate detergents should carefully follow the specific manufacturer's instructions for the proper use of the product, especially the dilution ratio recommended. Even diluted, trisodium phosphate should be used only with waterproof gloves as it is very irritating to the skin.

B. Use Appropriate Cleaning Equipment

Since high-phosphate detergent mixture is used to wash down a variety of surfaces, several kinds of application equipment are needed, such as wringer buckets, mops, squeegee sponge mops, variously sized hand sponges, and rags. Using the proper equipment on each surface will enhance the quality of the high-phosphate wash process.

C. Use Proper Wet Cleaning Procedures

At the conclusion of the active abatement process and after the first HEPA vacuuming, all surfaces should be thoroughly and completely washed with
a high-phosphate solution. These surfaces include (but are not limited to) ceilings, walls, floors, windows [sash, sill, well], doors, fixtures of any kind (light, bathroom, kitchen), built-in cabinets, and appliances; this includes not just surfaces but also unabated areas potentially affected by using a containment system (see section 9.3.3). Because weather can adversely affect the efficacy of exterior containment, the surface plastic of the containment system should be removed at the end of each workday. On a daily basis, as well as during final cleanup, the immediate area should be examined visually to ensure that no lead debris has escaped containment. Any such debris should be raked or swept up and placed in double 4-mil or single 6-mil plastic bags, which should then be sealed and stored along with other contaminated debris.

10.2.2 Other Safety Procedures—Worker Protection Measures. General worker protection measures are discussed in chapter 8. However, field practice has shown that it is during daily cleanup activities, especially while sweeping, that workers may be exposed to high levels of airborne lead dust. Therefore, workers must wear protective clothing and equipment, especially appropriate respirators, during daily cleanup activities.

**Containment of Dust.** It is important to maintain the integrity of the plastic sheeting used to contain lead debris in a lead-paint abatement project. During their daily cleanup activities, abatement workers should look for areas of the plastic requiring repair. Holes and rips found should be patched with 6-mil plastic and duct tape immediately after cleaning.

10.2.3 Special Procedures After Abatement

Using a comprehensive and methodical approach for lead-paint abatement is especially critical when planning the final cleanup. If followed carefully and completely, the steps that follow (combined with the other procedures discussed in these Guidelines) should result in an environment that meets the clearance standards for re-occupancy.

**10.2.3.1 Preliminary Final Cleanup.**

Before final cleanup can begin and before abated surfaces can be painted or sealed, the plastic sheeting used for containment must be removed. This contaminated plastic sheeting must be removed and disposed of very carefully. Removal should start with upper-level plastic, such as that on cabinets and counters. The plastic should first be sprayed or misted with water to hold down dust, and then folded in upon itself to trap any dust residues inside. Before removal of floor plastic, it should be sprayed and swept as detailed earlier in this chapter. It should be folded carefully from the corners/ends to the middle to trap any remaining lead dust and placed into double 4-mil or single 6-mil plastic bags that are then sealed and removed from the premises. As with daily cleanup, this plastic removal process requires the use of protective equipment, especially appropriate respirators. Plastic sheets used to isolate contaminated rooms from noncontaminated rooms should not be removed at this time. These sheets should remain until after the preliminary final cleanup is complete and then be carefully removed as described above.

After the plastic has been removed from the contaminated area, the entire area should be HEPA-vacuumed as detailed in section 10.2.1, starting with the rooms farthest from the entrance to avoid retracking dust through the already-cleaned area. In each room, vacuuming should begin with the ceilings and proceed down the walls; making sure every surface is treated, including doors and door trim, windows, window sills, wells, and trim, baseboards, etc.

The entire affected area should next be washed down with a TSP solution as detailed above and then it should be HEPA-vacuumed again using the steps already outlined. The contractor must not deviate from or skip any step. To do so could mean that hazardous levels of lead dust and residue could be embedded in the new paint and mobilized later when that paint deteriorates or is abraded.
10.2.3.2 Cleaning of Workers, Tools, Equipment, and Vehicles. Special attention should be given to the following activities to ensure that family members, other workers, and subsequent properties do not become contaminated.

A. Personal Hygiene
Workers should carefully follow the personal hygiene procedures outlined in chapter 8.

B. Supplies
Consumable/disposal supplies such as mop heads, sponges, and rags should be replaced regularly, at least at the end of each abatement project or monthly, whichever comes first. Soiled items should be treated as contaminated debris (see chapter 11).

C. Equipment
Durable equipment such as power and hand tools, generators, and vehicles should be cleaned at least at the end of each abatement project or monthly, whichever comes first. This cleaning should consist of a thorough HEPA-vacuuming and washing with a high-phosphate solution.

10.2.3.3 Preliminary Visual Inspection. After the preliminary final cleanup effort is completed, an inspector should visually inspect the entire affected area to ensure that all surfaces requiring abatement have been addressed and all visible dust and debris have been removed. (See Section 10.2.3.6 for information and final inspection.) If the results of the visual inspection are unsatisfactory, affected surfaces must be re-abated and/or re-cleaned, in accordance with the inspector’s instructions, until satisfactory results are achieved.

10.2.3.4 Painting/Sealing. Painting or otherwise sealing abated surfaces and all interior floors is the next step of the cleaning process. Sealed surfaces are much easier to clean and maintain over time than those that are not sealed. Also, this sealing process may encapsulate any remaining lead dust particles that were not removed by the HEPA-phosphate wash-HEPA treatment. Painting, or coating, should never be used as a substitute for thorough cleaning however.

1. Abated Surfaces. All abated surfaces, including walls, ceilings, and woodwork, should be primed with an appropriate primer. All applicable areas may then be repainted. For particularly problematic areas, such as window sashes, jambs, sills, and wells, they should be painted with a final coat of high-gloss enamel. Surfaces encapsulated with vinyl, aluminum coil stock, and other materials traditionally not repainted are exempt from the painting provision. They should, however, receive the other parts of the complete cleanup treatment.

2. Floors. Wooden floors should be sealed with a clear polyurethane or painted with deck enamel or a polyurethane-based paint. Vinyl tile, linoleum, and other similar floors should be sealed with an appropriate wax. Concrete floors should be sealed with a concrete sealer or other type of concrete deck enamel. If concrete or wooden floors already have a good coat of sealant, it may be possible to skip this step, depending upon what is indicated by the pilot abatement projects. Floors without an intact, nonporous coating should be coated.

10.2.3.5 Final Cleanup. After painting/sealing is complete, the final cleanup can take place. The recommended method for the entire affected area is as follows:

- First, it should be HEPA-vacuumed again.
- Second, it should be washed down with TSP solution again.
- Finally, it should be HEPA-vacuumed again.

Wall and ceiling surfaces newly painted with latex paint are exempted from the final wash due to the danger of staining or otherwise damaging the final painted surface, but should be HEPA-vacuumed again. Also, it may be possible to use less rigorous final cleanup steps, as long as clearance are met. The degree of final cleaning necessary can be determined by clearance testing during the pilot abatement project (see section 6.3.2).

10.2.3.6 Final Inspection. After the final cleanup is complete, the final inspection should take place. As with the preliminary visual inspection (discussed in section 10.2.3.3), the final inspection has two primary goals. The first is to ensure that the abatement work is complete and no unencapsulated lead paint remains in the dwelling. The second is to detect the presence of lead dust. While there may be some residual airborne dust, the primary postabatement hazard is lead-contaminated surface dust. As stated previously, the abatement process often releases large amounts of lead, even when methods that do not release much visible dust (such as caustic paste) are used. Acceptable levels of lead in dust are only a few hundred micrograms per square foot (µg/ft²). Abatement without proper cleanup can yield lead dust levels of several thousand micrograms per square foot or higher. To meet the two goals of the final inspection, the inspector must perform both a visual inspection and clearance testing of lead levels in surface dust. These procedures are explained below.

10.3 Postabatement Visual Inspection
First the inspector should confirm job completeness by determining whether all surfaces have been abated according to the approved abatement plan. Special attention should be given to areas where lead paint has been removed adjacent to paint that is intact (for example, where paint has been removed from a door frame but nonlead paint is left on the baseboard). Paint at this joint should be sound. Windows should be checked for paint in hard-to-reach places. The inspector must make sure that all abated surfaces and all floors have been repainted or otherwise sealed.

Next, the inspector should determine whether the dwelling's lead has been adequately cleaned by examining all surfaces for dust and debris. A damp cloth should be used to collect dust from surfaces such as floors or window sills. This is the practical method for establishing that no dust is left, and should not be confused with dust monitoring. If dust is found, the work area should be re-cleaned and the damp cloth test repeated.

10.4 Testing Associated with the Clearance Process
Once final cleanup and postabatement visual inspection have been completed, remaining surface dust must be tested to ensure that only very low levels of lead dust remain before re-occupancy by residents is permitted. This surface dust testing process is referred to as clearance testing, and the highest acceptable dust lead levels are referred to as clearance criteria.

10.4.1 Surface Dust Sampling
The surface dust sampling method which is currently recommended is surface wipe sampling, using commercial wipes moistened with a non-alcohol wetting agent. Detailed guidance on surface wipe sampling is provided in section A-5.4. Surface dust sampling should not be conducted if there is a visible accumulation of dust or debris. In this case, wipe sampling should be deferred until a thorough cleanup has been completed.

Table 10.1 below presents the recommended number and location of wipe samples, according to the type and extent of abatement. If only some component types are to be sampled in a specific area, the inspector should ensure that the component types to be sampled are randomly selected. Within an area, the specific components to be
sampled should be selected at random and the specific sample location on a large component should be selected at random.

### Table 10.1.—Recommended Number and Location of Surface Wipe Samples

<table>
<thead>
<tr>
<th>Type of abatement procedure</th>
<th>Number and location of wipe samples</th>
</tr>
</thead>
<tbody>
<tr>
<td>On-site paint removal throughout the unit</td>
<td>3 wipe samples in each area:</td>
</tr>
<tr>
<td></td>
<td>1 window wall,</td>
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<tr>
<td></td>
<td>1 window sill,</td>
</tr>
<tr>
<td></td>
<td>1 floor,</td>
</tr>
<tr>
<td>On-site paint removal in limited areas</td>
<td>3 wipe samples in each area abated:</td>
</tr>
<tr>
<td></td>
<td>1 window wall,</td>
</tr>
<tr>
<td></td>
<td>1 window sill,</td>
</tr>
<tr>
<td></td>
<td>1 floor,</td>
</tr>
<tr>
<td>Replacement and/or encapsulation only throughout</td>
<td>1 wipe sample in each area, divided equally between window wells,</td>
</tr>
<tr>
<td>the unit</td>
<td>window sills,</td>
</tr>
<tr>
<td>Replacement and/or encapsulation only; in limited</td>
<td>and floors,</td>
</tr>
<tr>
<td>areas</td>
<td>1 sample outside the containment area (within 10 feet) in 20% of the</td>
</tr>
<tr>
<td></td>
<td>abated units,</td>
</tr>
<tr>
<td>Exterior abatement</td>
<td>1 sample outside the containment area (within 10 feet) in 20% of the</td>
</tr>
<tr>
<td></td>
<td>abated units,</td>
</tr>
<tr>
<td></td>
<td>At least 1 wipe test on a horizontal surface in part of outdoor living</td>
</tr>
<tr>
<td></td>
<td>area (e.g., front porch).</td>
</tr>
</tbody>
</table>

1 An area is a room, closet, pantry, hall, portion of room (such as the kitchen area of a living room, etc.). If a room and its closet are both abated, they can be treated as one area for the purpose of wipe testing.

2 Compare to pre-abatement wipe samples to determine if dust from the abatement process has contaminated non-abated areas. The abatement contractor will be required to clean up these areas if contamination from the abatement process occurs, or if such cleanup is otherwise in his/her scope of work.

In order to make appropriate comparisons of the results from the laboratory analysis of dust wipe samples to applicable federal, state and local criteria, the following points should be noted:

- Most criteria stating maximum acceptable levels of surface soil dust are stated in terms of weight of lead present for relevant surface area.
- Laboratory results for dust wipe samples are generally stated in terms of weight of lead present on a wipe.
- In order to convert laboratory results to weight of lead present for relevant surface area, the following is required for each dust wipe sample:
  - A sampling location (a specific surface area) must be selected and the surface area of that location carefully measured and recorded.
  - The wipe sampling procedure must ensure that a very high percentage of the surface dust present on the sample location is captured on the wipe.
  - If the above requirements cannot be met, dust sampling procedures will provide only qualitative information which will be difficult to compare to applicable federal, state and local criteria.

A very large percentage of airborne dust lead is believed to settle out of the air within 24 hours of the completion of post-abatement cleanup activities. Accordingly, surface dust sampling should take place no sooner than 24 hours after completion of post-abatement cleanup activities, to allow any airborne lead dust present to settle onto the surfaces to be tested.

### 10.4.2 Laboratory Testing for Lead in Surface Dust

Many of the recommended procedures associated with laboratory testing for surficial lead dust are the same as for lead in paint film. Laboratory testing procedures for lead in paint film were discussed in section 4.2, with detailed supporting guidance provided in sections A-5.2 and A-5.3. Supporting guidance on laboratory testing for lead in surface dust is provided in section A-5.4.

The most important difference between testing for lead in paint film and in surface dust is the form of the sample which is taken. In order to obtain a sample of surface lead dust, a known surface area is wiped with a commercial wipe which captures the surface lead dust present on the wiped surface. The wipe is packaged and delivered to a qualified laboratory for analysis. Recommended procedures for the collection of wipe samples are discussed in section A-5.4.

Laboratory selection is a critical part of the testing for residual lead dust levels during the clearance process. There are currently no accreditation programs for laboratories performing lead analysis of wipe samples. However, some important laboratory selection criteria are discussed in section A-5.1. Also, appendix 8 lists a number of laboratories which are recommended based on accreditation for lead analysis in other media. Many of these laboratories may also be qualified for lead analysis of wipe samples.

Recommended procedures for the laboratory analysis of wipe samples differ from procedures for the laboratory analysis of paint film samples in two respects: (1) The sample preparation techniques employed are designed to digest lead dust contained on a commercial wipe instead of lead contained in paint film, and (2) the instrument procedures are designed to detect and quantify smaller amounts of lead due to the more stringent standards which are applied to surficial lead dust (e.g., 200 g/ft²). The latter difference leads to a preference for graphite furnace AAS procedures when analyzing wipe samples. It should also be noted that the matrix interferences that are encountered for dust samples will generally be different from those observed for paint film samples.

In order to control chemical analysis costs and ensure that analytical results are comparable with applicable standards, it is necessary to carefully choose the surface area to be sampled per wipe, the degree of sample dilution during the sample preparation process, and the calibration range of the instrument so that surficial lead levels equivalent to the action level associated with an applicable standard will produce samples for instrumental analysis that fall in the middle of the calibration range. Since the standard criteria for surficial lead dust levels are lower than for paint film, the calibration range for surficial dust analysis will generally be lower.

Specific information associated with the collection of dust samples should be recorded on a data form for dust samples, which would include such information as the location of the sample, the surface type and material, and the
surface area. The results of the analysis of lead in dust wipe samples must be expressed in terms of total mass of lead per unit surface area sampled (e.g. g/ft²) for comparison with applicable standards for surface dust levels. A data conversion factor is provided for expressing laboratory results for dust wipe samples in proper units as described in section A-5.

10.4.3 Clearance Criteria and Data Interpretation

There are no Federal standards governing the level of lead in house dust at the present time. The States of Maryland and Massachusetts have established the following standards for specific interior surfaces:

- Floors: 200 micrograms per square foot
- Window Sills: 500 micrograms per square foot
- Window Wells: 600 micrograms per square foot

Since there are no applicable Federal standards, it is recommended that these levels be used as clearance criteria until such time as they can be refined or replaced through additional research. Before a unit is re-occupied after abatement, it should be demonstrated that residual lead dust levels are in compliance with the clearance criteria.

The decision rules that should be used for the determination of compliance with the clearance criteria are as follows:

- In each area (as defined in the footnote to table 10.1) within an individual unit, compare the residual lead dust level from each wipe sample (as derived from the laboratory results) with the clearance criteria. If any of the residual lead dust level results exceed the clearance criteria, the area must be cleaned again and retested until the criteria are met.
- If all residual lead levels for an area meet the clearance criteria, the area is cleared for re-occupancy.
- A unit may be cleared for re-occupancy only after all areas within that unit have been cleared according to the criteria above.

In cases of exterior abatement, the standard for floors should be applied to porches. In case of limited abatement, it is important to ensure that areas outside the containment area were not contaminated during the abatement work. Therefore, samples should be taken in such areas before and after abatement and the lead levels compared to check whether an increase attributable to the abatement has occurred. If it has, final cleanup and clearance testing must be extended to the affected areas.

10.5 Reporting and Documenting the Cleanup

Since cleanup is an integral part of the whole lead-paint abatement process, reporting and documenting the cleanup should not be done separately but as a part of the reporting/documentation of the whole project. As with hazard identification paint testing (chapter 4) and testing associated with the abatement process (chapter 6), it is important to prepare a Sampling and Analysis Plan prior to the initiation of sampling and chemical analysis for clearance testing.

For clearance testing, sampling will primarily be done for lead in surficial dust. To ensure uniform planning and reporting formats, a Sampling and Analysis Plan should be prepared in accordance with the guidance presented in appendix 13. The Plan should cover all aspects of the testing from sampling design to reporting. However, the amount of detail supplied in the Sampling and Analysis Plan will depend on the size of the housing project and the complexity of testing. Plans for large abatement projects will in general be more detailed than those for small projects. A summary of the main components of a Sampling and Analysis Plan is provided in Figure 4.1 of chapter 4. It is recommended that all Sampling and Analysis Plans be prepared in accordance with the outline in Figure 4.1.

The Plan should include a description of the important reports and quality assurance documentation to be delivered, along with the responsible individuals, decisions to be made, and actions to be taken. It should also include an outline for the final report, and a discussion of how the testing results will be presented and interpreted.

Great care should be taken in maintaining all records relating to clearance testing. These records should include all results of all surface dust testing, as well as any air monitoring testing performed before, during, and after abatement.

10.6 How to Find Qualified Firms

The recommended qualifications for a cleanup contractor are the same as those for the abatement contractor; usually, one firm performs both functions. Chapter 5 discusses these qualifications in great detail. They should also apply to cleanup workers as well as abatement workers.
familiarity with the types of waste normally generated during abatement, can help a PHA to avoid potentially costly errors, such as mixing hazardous and non-hazardous wastes, or mixing different types of hazardous waste.

In addition to the basic guidance provided in this chapter, appendix 6, "Solid and Hazardous Wastes", and appendix 9, "EPA Handbook for Small Waste Generators", provide additional information and further details on waste disposal. Also, EPA's RCRA/Superfund Hotline at 1-800-424-9346 (382-3000 in Washington, DC) will answer waste disposal questions.

11.1 RCRA Regulations

The basic Federal law governing waste disposal is the Resource Conservation and Recovery Act (RCRA) of 1976. RCRA was amended in 1980 and again in 1984, by the Hazardous and Solid Waste Amendments (HSWA). HSWA brought smaller waste generators under RCRA regulation for the first time.

RCRA distinguishes between solid waste and hazardous waste. Solid waste is a very broad term covering all solid and liquid forms, and some gaseous forms, of household trash, discarded industrial materials, sludge from waste treatment plants, refuse from mining operations, etc. With the exception of wastes regulated under other laws (e.g., nuclear materials), RCRA's definition of solid waste covers just about everything encompassed by a "common sense" definition of waste. Hazardous waste is solid waste which is "dangerous", i.e., poses a substantial present or future threat to health or the environment if improperly managed.

Solid wastes are regulated by the States under subtitle D of RCRA, subject to minimum technical standards for landfills established under subtitle D. EPA encourages States to develop their own solid waste management plans; roughly half have EPA approved plans in place. Subtitle C of RCRA establishes a "cradle-to-grave" system to ensure proper management of hazardous waste from generation through ultimate disposal. Thus, the regulations apply to generators, transporters, and treatment, storage, and disposal (TSD) facilities for hazardous waste. A State may run its own hazardous waste program with EPA approval, provided the State regulations are at least as stringent as RCRA. A PHA always needs to be aware of, and comply with, more stringent State (or even local) regulations that may apply to LBP abatements.

LBP abatements produce potentially large quantities of solid waste, such as building components, sludges from paint stripping, lead paint chips and dust, waste water from cleanup, used protective clothing and filters, plastic sheeting used for containment, etc. Some of this waste is hazardous. This chapter explains how to determine what wastes are hazardous, and how to dispose of both hazardous and solid wastes in a cost-effective manner.

11.2 Defining Hazardous Waste

Under RCRA a waste may be hazardous either because of its characteristics or because it is specifically listed as hazardous. The four hazardous characteristics are ignitability, corrosivity, reactivity, and toxicity. Ignitable wastes include liquids with flashpoints below 140 degrees Fahrenheit, flammable solids and compressed gases, and oxidizers. Corrosive wastes are those with pH<2 or >12.5 (for basic), or those that corrode steel at a certain rate. Solvents or sludges from paint removal may be ignitable or corrosive. Reactive wastes include those capable of easily generating explosive mixtures or toxic gases, especially when mixed with water. LBP abatement is unlikely to produce reactive wastes.

The fourth hazardous characteristic, toxicity, is the most complex to understand. A waste is toxic if a standard testing procedure results in extraction of certain toxic constituents above specified concentrations. The testing procedure mimics the leaching action in a landfill. Currently (March 1990), the Extraction Procedure (EP) Toxicity Test is used. The March 1990 revision of the toxicity characteristic expands the list of toxic constituents, and replaces the EP test with the more stringent Toxicity Characteristic Leaching Procedure (TCLP), effective in late 1990. In the interim, results of either the EP or the TCLP are acceptable. For LBP abatement waste, lead is the toxic constituent of concern, with a limit of 5 parts per million in EP or TCLP extract. Based on preliminary testing of abatement waste, lead is toxic. However, paint chips, HEPA vacuum filters, and certain wash waters are likely to fail the toxicity test.

There are three categories of listed hazardous waste:

1. Specific-source wastes (wastes from specific industries).
2. Generic wastes (wastes, such as solvents, from common manufacturing and industrial processes).
3. Discarded or off-spec commercial chemical products (such as creosote and some pesticides).

EPA publishes, and regularly updates, its lists of hazardous wastes, based on continuing research and testing. Solvents and paint strippers used in LBP abatement may be listed as generic wastes or commercial chemical products.

11.3 Hazardous Waste Generators—Pre-Disposal Requirements

RCRA defines a hazardous waste generator as any person or company, by site, whose act or process produces hazardous waste. In an LBP abatement, the generator may be the PHA, or both the abatement contractor and the EPA. If the abatement contract does not require the contractor to dispose of the waste, the PHA is the generator. If the contractor is required to dispose of the waste, then the PHA and the contractor are called "cogeners". The PHA cannot contract away its responsibility for safe disposal of abatement waste.

The EPA hazardous waste regulations distinguish three types of generators. Those that generate no more than 100 kilograms (about 220 pounds) of hazardous waste per month are conditionally exempt small generators. As discussed below, they are generally exempt from EPA hazardous waste regulations. Generators producing more than 100 but less than 1,000 kilograms of hazardous waste per month are called small generators. They must comply with EPA hazardous waste regulations for accumulation, treatment, storage, and disposal of hazardous wastes. Large generators, generating 1,000 kilograms or more of hazardous waste per month, are subject to all EPA hazardous waste regulations, including reporting and recordkeeping requirements. EPA also has a list of very toxic ("acute hazardous") wastes, which, if generated in quantities greater than 1 kilogram per month, must be managed under the full set of requirements.

The method used for LBP abatement will affect the generator status of a PHA and its abatement contractor. For example, a strategy of replacement/encapsulation is likely to produce small quantities of hazardous waste (e.g., paint chips, HEPA filters), so that the small generator exemption may apply. On-site paint removal may produce large quantities of sludge and waste water from stripping, making the PHA subject to most or all of the RCRA regulations. Since hazardous waste disposal is much more expensive than solid waste disposal, disposal cost
considerations are a factor in the choice of abatement method.

11.3.2 Pre-disposal Requirements on the PHA

11.3.2.1 Waste Evaluation. The PHA and the abatement contractor must evaluate the waste produced by abatement to determine which types are hazardous. The determination can be based on the prior experience or knowledge of the contractor or the PHA, or, if applicable, on results of testing performed as part of the HUD Demonstration Project. If prior experience is not adequate to characterize a waste, and the waste is not listed as hazardous, testing must be performed to determine whether the waste exhibits one of the four characteristics.

The evaluation of waste can be greatly facilitated by first classifying waste products into suitable categories. Suggested categories are:

- Lead paint chips.
- Lead paint dust.
- Old woodwork, plaster, windows, doors, and similar bulky components removed from the building.
- Plastic sheeting and tape used to cover floors and other surfaces during lead paint removal.
- Solvents and caustics used during the stripping process.
- Sludge from paint stripping operations.

11.3.3 Waste disposal of hazardous wastes may have to be disposed of as hazardous wastes, because such mixtures may have to be disposed of as hazardous, with the resulting increase in disposal costs. Prior knowledge of the physical and chemical properties of wastes dictates which characteristics one should be looking for. Paint chips, sludges, building components, and filtered waste water and the solids filtered from it, should be tested using the EP-Toxicity test (or, by late 1990, the TCLP). Sludges should also be tested for corrosivity. Common-sense precautions should be taken. For example, do not evaporate flammable solvents from sludges by heating because of the danger of fire.

11.3.2.2 Determining Generator Status. The results of waste evaluation are used to determine whether the PHA and abatement contractor are conditionally exempt (no more than 100 kilograms per month), small (100-1,000 kilograms per month), or large (1,000 kilograms or more per month) generators. Generator status is determined by the amount of waste generated per month at the abatement site. Conditionally exempt generators (no more than 100 kilograms per month) are required only to dispose of their wastes in compliance with State regulations, which, in most States, means that they must label their waste and take it to a licensed solid waste disposal facility. However, some States require disposal of even small quantities of hazardous waste at a licensed hazardous waste disposal facility. Both small (non-exempt) and large generators must follow additional procedures described below.

11.3.2.3 Obtaining an EPA Identification Number. Unless the contractor and PHA are conditionally exempt, an EPA Identification Number must be obtained for each abatement site. However, only one ID number per site is required. The PHA and the contractor should check with the State hazardous waste agency or the regional office of EPA to find out if there is a policy on which of them should apply for the ID number. If there is no policy, the PHA and the contractor should agree among themselves who will obtain the ID number. Even if the contractor obtains the ID number, the PHA is still responsible for the waste as a cogenerator.

EPA ID numbers are 12-character ID numbers) are used by EPA and the States to track hazardous waste activities nationwide. Transporters and treatment, storage, and disposal facilities are also required to have EPA ID numbers. The ID number is obtained by filing Form 8700-12, “Notification of Hazardous Waste Activity”, with the State hazardous waste agency or the regional EPA office. Details of the procedure, with a filled-out example of this form, are given in appendix 9. The assignment of an ID number takes 3-6 weeks, so the application should be submitted well in advance of the start of abatement.

11.3.2.4 Storage Requirements. A conditionally exempt generator may never accumulate more than 1000 kilograms of waste on site. If this limit is exceeded, the generator becomes subject to all the requirements for a small generator. Small generators may accumulate up to 6000 kilograms on site for 180 days (or 270 days if the disposal site is more than 200 miles away). For large generators, the period is reduced to 90 days. If the time or quantity limits are exceeded, the generator is considered a storage facility, a storage permit is required and other regulations must be met.

Hazardous waste may be stored in 55-gallon drums, tanks, or other containers suitable for the type of waste generated. Common-sense rules must be followed to protect human health and the environment, and to reduce the likelihood of damages or injuries caused by leaks or spills of hazardous waste. For example, the storage area should be secured, and all containers should be marked, "HAZARDOUS WASTE", with contents identified. Containers should be inspected for leaks or corrosion every week. Further details on storage may be found in appendix 9.

11.4 Disposal of Wastes

11.4.1 General Considerations

As previously discussed, cost-effective waste disposal depends critically on determining which wastes will be hazardous before abatement starts. If this is not done, hazardous wastes cannot be segregated from solid wastes, and the entire mixture may have to be disposed of as hazardous waste, with a huge (and unnecessary) increase in disposal costs. Controlling the generation and spread of dust and debris during the abatement will also help to control disposal costs.

Various practices which are common in the construction industry should be avoided in LBP abatement in order to comply with Federal, State and local laws and to prevent environmental damage or injury to human health. Waste should neither be left on the property in an unsecured area, nor dumped by the roadside or in a nearby unauthorized dumpster. Debris should never be burned or incinerated, because of the danger from lead fumes. Lead-contaminated wash water should not be flushed into storm drains or sanitary
11.4.2 Solid Waste (Non-Hazardous) Disposal

Solid waste which has been evaluated and determined not to be hazardous can be disposed of in a State approved landfill.

Large debris such as doors, windows, and trim should be wrapped in 6-mil plastic, sealed with tape, and moved to the trash storage area. Small debris such as disposable clothing should be placed in two 4-mil or one 6-mil plastic bags, sealed, and placed in the trash storage area.

Waste should be transported to the disposal facility in covered vehicles. Residential or commercial trash collection services should not be used without approval of State or local authorities. Covered dumpster services are acceptable, if the service company is informed of the presence of lead, and if the PHA ensures that appropriate disposal methods are used (e.g., no incineration).

11.4.3 Hazardous Waste Disposal

Hazardous waste must be disposed of at a hazardous waste disposal facility, usually called a treatment, storage, and disposal facility (TSD). A TSD must have an EPA ID Number and authorization (either a permit or "interim status") to operate. It is the responsibility of the PHA and abatement contractor to ensure that the TSD meets all legal requirements. The TSD can advise on appropriate packaging of waste, restrictions on disposal (e.g., liquids in landfills), and technical issues, such as methods for removing liquids from wastes.

Although RCRA regulations (but not all State regulations) permit a generator to haul their own waste to a TSD, the additional regulatory requirements that must be met (see appendix 9) will make most PHA's use the services of a hazardous waste transporter. Transporters must have an EPA ID number, and must meet U.S. Department of Transportation (DOT) requirements for shipping containers. A good transporter will be able to advise the PHA and abatement contractor on bagging and special handling of hazardous wastes. Many States have special requirements in this area, so the State hazardous waste agency, listed in appendix 9, should be contacted for advice.

Special care must be taken in removing hazardous waste from the abatement site, in order to avoid environmental contamination or injury to workers or residents. While in the work area, the exterior of the filled waste containers should be HEPA vacuumed and wet-wiped to remove residual contamination. If plastic bags are used, they should be bagged again as they come out of the work area. Waste should be removed from work areas at times when tenant use of hallways and staircases is low. The path from the work area to the truck or dumpster should be planned in advance to minimize contacts with tenants and to ensure access to freight elevators or loading docks.

Containers should be moved and packed into the truck with care. When possible, hand trucks, dollies, or pull carts should be used, along with ramps or trucks with lift gates. These procedures will help minimize container breeaking and consequent exposure of residents or employees to hazardous waste.

11.5 Selecting Transporters and TSD's

Under RCRA's "cradle-to-grave" philosophy of waste management, the generator always retains responsibility for the waste. Therefore, the choice of a transporter for the waste, and the choice of a disposal facility, are very important. A PHA is exposed to liability for any negligence on the part of these handlers of its waste.

The PHA can develop confidence in a proposed transporter or TSD by carefully checking the firm's qualifications:

- They must have an EPA ID number
- What similar projects have they successfully completed?
- What references do they have, and what do the references say [always ask a reference if they know of other clients of the firm]?
- How long have they been in business?
- How much waste can they handle over what time periods?
- Can they handle both solid and hazardous wastes?

The State hazardous waste agency and the EPA regional office can assist a PHA in finding qualified transporters and TSD's. These agencies will know if a firm has an EPA ID number, and may know about any problems it has had. Other sources for finding and checking out firms include business colleagues, trade associations, the Better Business Bureau, and the Chamber of Commerce.

Given the PHA's ultimate responsibility for proper disposal of abatement wastes, written contracts with the transporter and the TSD are important. The contract should cover:

- The scope of work to be performed and the schedule
- Testing and analysis of wastes at the disposal site
- Cost estimates and handling of overruns
- Payment procedures
- Liability and responsibility for claims.

Such contracts are usually developed by the transporter or TSD and often contain boilerplate provisions written in their favor. A PHA should always consult with both technical and legal experts on RCRA and EPA hazardous waste regulations before signing any contract.

11.6 Generator Requirements During and After Disposal

Unless the PHA qualifies as a conditionally exempt small generator, its hazardous waste shipments must be accompanied by a document called the Uniform Hazardous Waste Manifest. A sample copy of this form is shown in appendix 9. The manifest is a multipurpose shipping document completed by the generator, and signed by the generator, the transporter, and the waste disposal facility. Its purpose is to track hazardous waste from its point of generation to its ultimate disposal—the so-called "cradle-to-grave" system. The form is usually provided by the transporter. By signing it, the generator certifies that the manifest is complete and accurately describes the shipment, that the shipment is ready for transport, and that reasonable efforts have been devoted to minimizing the amount and hazardous nature of wastes generated. Further details may be found in appendix 9.

Once the waste is received at the disposal facility, the operator of that facility must send a signed copy of the manifest back to the generator. If this copy is not received within 35 days (45 days for a small quantity generator) of the shipment of the waste, the generator must contact the operator of the disposal facility to ascertain the status of the shipment. If the copy is still not received within 45 days (60 days for small quantity generators) of the shipment, the generator must contact the Regional Administrator of EPA, and send to the regional office a legible copy of the manifest signed by the generator, with a letter explaining the efforts taken to locate the shipment. This is called an "exception report."

The PHA and the abatement contractor must maintain a number of records for three years. These include copies of manifests and exception reports, and results of testing of waste for hazardousness. Large quantity generators are required to file biennial reports of hazardous waste activity with
the State hazardous waste agency of the EPA regional office. A complete list of recordkeeping and reporting requirements is given in appendix 6, Table A-6.3.

Chapter 12: Single-Unit Abatements for Children

12.0 Introduction

These Guidelines primarily address the situation in which a PHA is abating a number of units at one time in the context of comprehensive modernization. Another situation for which PHAs must abate lead-based paint hazards is when a child with an elevated blood-lead (EBL) level is found to live in a unit or is planning to move into a unit.

Abatement in units with EBL children differs from multi-unit, comprehensive modernization abatement in several ways. Most importantly, rather than dealing with future or potential risks, the PHA is dealing with a situation in which harm to a child has actually occurred. Because of their excessive exposure, EBL children are more susceptible to any additional lead exposure. It is therefore critical that abatements be conducted quickly, safely, and cleanly, and that the postabatement environment contain minimal amounts of lead. In order to minimize damage to the child from ongoing exposure to lead hazards and to comply with HUD regulations, such abatements must be performed on an accelerated schedule. Finally, such abatements will often involve abating only one unit and may involve only certain surfaces within that unit.

12.1 Regulatory Requirements

HUD's lead-based paint regulations contain special procedures for testing and abating units in which EBL children live. PHAs must either test and abate such units, or must assign the family to a post-1978 unit or one previously tested and found to be free of lead-based paint hazards (this may be a unit that has previously been abated). Testing must occur within five days after the PHA is notified that an EBL child has been identified. If full abatement cannot be completed within five days after positive testing, emergency intervention actions (including removing defective lead-based paint and scrubbing surfaces after such removal with a detergent solution) must be taken. Full abatement must be completed within 14 days after positive testing unless funding sources are not immediately available. In that event, the PHA may use operating reserves or request reimbursement from current fiscal year CIAP funds or reprogramming of previously approved CIAP funds.

12.2 Precautions

The emergency intervention actions mentioned in the regulations should be taken only as a last resort, because removal of defective paint does not provide long-term safety and can increase lead dust levels in the air and on horizontal surfaces. If the PHA decides to perform such emergency intervention actions, precautions must be taken. The EBL child and the rest of the family should not be present in the unit during the removal and cleanup of defective paint. Before scraping or using other abrasive abatement methods, tenant belongings and furniture should be moved away from the surface to be abated and plastic sheeting should be used to cover floors and immovable objects. Workers must wear respirators and other protective equipment as outlined in Chapter 8. Cleanup must include at least two rounds of mopping with a trisodium phosphate (TSP) solution, or a TSP wet wash-HEPA vacuuming-TSP wet wash series, as described in chapter 10.

12.3 Steps to Take

If abatement in a unit housing an EBL child is to be completed promptly, PHAs will not have enough time to develop abatement plans as recommended in chapter 6. Therefore, PHAs should prepare, in advance, generic abatement procedures that will be instituted as soon as the PHA is notified of an EBL child. These procedures should address reassignment, unit testing (this action may have been completed by the local health department), abatement and re-occupancy.

A. Reassignment: It is recommended that EBL children and their families be moved to other PHA-owned units that have been abated or tested and found to be safe, in order to avoid the need to rush abatement work. If the EBL child cannot be moved permanently to another unit, and if the abatement in the child's unit cannot take place promptly, it is recommended that the EBL child and family be temporarily relocated. Temporary relocation units should be known or believed, based on testing results, to be lead-free.

B. Testing: Using XRF in-situ testing is preferable to removing samples for laboratory analysis, because faster results can be obtained. (See section 4.1.7 for information on testing.)

C. Abatement: Completing abatement promptly is important. Therefore, replacement becomes less attractive if it will be time-consuming to construct or purchase replacement components. On the other hand, dust generation is not desirable because EBL children should live in the most lead-safe environment possible. If faster, on-site removal methods with careful cleanup may be used. (See chapter 7 for the advantages and disadvantages of methods of abatement.)

D. Cleanup for Re-occupancy: Daily and final cleanup activities must be performed carefully and perhaps even repeated in order to minimize dust levels. Clearance levels must be met before the family is allowed to re-occupy the unit.

The material in chapter 8 (worker protection), chapter 9 (abating the lead-based paint hazard), chapter 10 (cleanup), and chapter 11 (disposal) remains pertinent when performing abatements in units housing EBL children.

Bibliographic Essay

Bibliographic Essay: Lead Paint Testing


Bibliographic Essay: Lead Dust Testing


Baltimore City Health Department Air lead monitoring reports of 1986-1988 of

Bibliographic Essay: Worker Protection


Glossary

Abatement is a comprehensive process of eliminating exposure or potential exposure to lead paint and lead dust which must include testing, and measures for worker protection, containment of lead and debris, cleanup and disposal of waste, and clearance testing.

Accuracy—the degree to which a measurement process determines a known amount of lead or other component in a particular reference material.

Action Level—the point at which something needs to be done to correct or eliminate the presence of lead.

Administrative Removal is the temporary removal of workers prior to their reaching blood lead levels requiring medical removal in order to provide additional protection to both workers and employers.
that could threaten human health or the environment.  

Contractor means any business entity, public unit, or person performing the actual abatement for a lead abatement project.  

Critical Path Method is a method of scheduling in a detailed manner the various steps that must be taken by each trade from the start to the completion of a construction project.  

Detection Limit—the minimum amount of a component that a method can reliably measure.  

Direct Reading XRF is an analyzer which provides the operator with a display of a lead concentration calculated from the lead “K” x-ray intensity.  

Discharge or Hazardous Waste Discharge—The accidental or intentional spilling, Hazardous Waste leaking, pumping, pour, emitting, Discharge emptying, or dumping of hazardous wastes onto any land or water.  

Disposal—The discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that any constituent thereof may enter the environment or be emitted into the air or discharged in any waters, including ground waters.  

Disposal Facility—A facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure.  

Encapsulation involves resurfacing or covering surfaces, and sealing or capping with durable materials, so as to prevent or control chalking, flaking leading-containing substances from becoming part of house dust or accessible to children.  

Engineering Controls are measures implemented at the work site to contain, control and or otherwise reduce exposure to lead dust and debris.  

EPA Identification—The unique number assigned by EPA to each Number generator or transporter of hazardous waste, and each treatment, storage, or disposal facility.  

EP Toxicity—A test, called the extraction procedure, that is designed to identify wastes likely to leach hazardous concentrations of particular toxic constituents into the ground water as a result of improper management. It is a characteristic of hazardous waste. See TCF.  

Exposure Monitoring is the personal air monitoring of an employee’s breathing zone to determine the amount of contaminant (e.g. lead) to which he/she is exposed.  

Facility—All contiguous land, structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units, e.g., one or more landfills, surface impoundments, or a combination of them.  

Federal Register—A document published daily by the Federal government that contains either proposed or final regulations.  

Final Inspection—inspection by a qualified inspector, industrial hygienist, or local public health official to determine whether abatement and cleanup are complete.  

Force Account is a term used to describe a PHAs self-performance of modernization work by the use of employees as opposed to performance by a contractor.  

Generator—Any person who first creates a hazardous waste, or any person who first makes the waste subject to the Subtitle C regulation (e.g., imports a hazardous waste, initiates a shipment of a hazardous waste from a TSD, or mixes hazardous wastes of different DOT shipping descriptions by placing them into a single container).  

Ground Water is water below the land surface in a zone of saturation.  

Hazardous Waste—As defined in RCRA the term “hazardous waste” means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may— 

A. Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or 

B. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.  

As defined in the regulations, a solid waste is hazardous if it meets one of four conditions.  

1. Exhibits a characteristic of a hazardous waste (40 CFR 261.20 through 262.24),  

2. Has been listed as hazardous (40 CFR 261.31 through 261.33),  

3. Is a mixture containing a listed hazardous waste and a non-hazardous solid waste (unless the mixture is specifically excluded or no longer exhibits any of the characteristics of hazardous waste),  

4. Is not excluded from regulation as a hazardous waste.  

HEPA or High Efficiency Particle Air means a filter capable of filtering out particles of 0.3 microns or greater from a body of air at 99.97 percent efficiency or greater.  

High Phosphate Detergent—Detergent which contains at least 5% tri-sodium phosphate (TSP).  

Incinerator—Any enclosed device using controlled flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace.  

Indian Housing Authorities—A public housing agency established (a) by exercise of a tribe’s powers of self-government independent of state law, or (b) by operation of State law providing specifically for housing authorities for Indians.  

Industrial Hygienist is a person certified by the American Board of Hygiene or an industrial hygienist in training, or an individual with equivalent education or experience.  

Initial Survey—a systematic inspection of a dwelling unit by a qualified inspector, using a portable XRF analyzer, atomic absorption spectroscopy, or other approved testing techniques, to determine whether a lead-based paint hazard is present.  

Interior Work Area means a hallway, room or group of rooms in which an abatement takes place on the inside of a building.  

Landfill—A disposal facility or part of a facility where hazardous waste is placed in on land and which is not a land treatment facility, a surface impoundment, or an injection well.  

Landfill Liner—A continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.  

Listed—Hazardous wastes that have been placed on one of three lists developed by EPA: Non-specific source wastes; Specific source wastes; Commercial chemical products. These lists were developed by examining different types of waste and chemical products to see if they exhibit one of the four characteristics, meet the statutory definition of hazardous waste, are acutely toxic or acutely hazardous, or are otherwise toxic.  

Logbook—A notebook that accompanies each XRF analyzer, to record such information as daily performance, maintenance problems, and average reading time.
Manifest—The shipping document, EPA form 8700-22, used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of general to the point of treatment, storage, or disposal.

Mean—The arithmetic average of data values. The algebraic sum of the data values divided by the number of data values. When using an XRF, the mean is the average of a series of numerical readings reported by the XRF. Medical Removal is the temporary removal of workers due to elevated blood lead levels as defined in these Guidelines.

Microgram—One millionth of a gram: 453 grams in a pound, 28,310,000 micrograms in an ounce. Owner means a person, firm, corporation, guardian, conservator, receiver, trustee, executor or other judicial officer, who, alone or jointly or severally with others, owns, holds, or controls the whole or any part of the freehold title to any property, with or without accompanying actual possession of it, and shall include in addition to the holder of legal title, any vendee in possession of it, but may not include a mortgagee or an owner of a reversionary interest under a ground rent lease.

Paint Removal is a strategy of abatement which entails stripping lead paint from surfaces of components. Pattern—The process of identifying specific building components containing LBP at a hazardous level within a project or group of buildings. Permit—An authorization, license, or equivalent control document issued by EPA or an authorized State to implement the regulatory requirements of subtitle C parts 264 and 265 for TSDs. Personal Samples (for sampling lead dust)—Air samples collected from within the breathing zone of a worker, but outside the respirator. The samples are collected with a personal sampling pump, pulling 1 to 4 liters/minute of air. Precision—the degree of repeatability of a series of successive measurements. Public Housing Agency (PHA)—Any State, county, municipality, or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage or assist in the development or operation of housing for low income families. Random Testing—the process of performing an initial survey in a representative sampling of units in a project. RCRA—Resource Conservation and Recovery Act of 1976. What we commonly refer to as RCRA is an amendment to the Solid Waste Disposal Act of 1965. RCRA was amended in 1980 and most recently on November 8, 1984 by HSWA.

Reading Cycle—Direct reading XRF analyzers calculate the lead “K” x-ray intensity in a specific time interval (10 to 30 seconds) which is fixed by the manufacturer and related to the age of the source. The calculated result in this time interval is a reading cycle. In order to determine a concentration of lead (ALC or SEL) the displayed results of a minimum of 3 single reading cycles must be averaged. The difference between the lowest and highest reading from at least three reading cycles must be less than 1.7 mg/cm².

Regulation or Rule—All or part of any Federal statement of general or particular applicability and future effect designed to: (1) Implement, interpret, or prescribe law or policy or (2) describe the Federal Department’s organization or its procedure or practice requirements.

Replicates is a strategy of abatement which entails the removal of components such as windows, doors, and trim that have lead painted surfaces and installing new components free of lead paint. Representative Sample—A sample of a universe or whole (e.g., waste sample pile, lagoon, ground water, or waste stream) which can be expected to exhibit the average properties of the universe or whole. Sample Site—A specific spot on a surface being tested for lead concentration through portable XRF or laboratory analysis. SEL or Substrate Equivalent Lead concentration is the average of at least 3 XRF single cycle readings on an unpainted surface. Shoot—to obtain the results of an XRF single reading cycle. Site—The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity. Small Quantity—A generator who produces less than 100 kg Generator of hazardous waste per month (or accumulates less than 100 kg at any one time) or one who produces less than 1 kg of acutely hazardous waste per month (or accumulates less than 1 kg of acutely hazardous waste at any one time). Sodium Sulfide is a chemical used to test a paint sample qualitatively for lead, typical concentrations are from 6 to 10%. A positive test is characterized by a gray, black or other dark discoloration of the paint film cross section. Solid Waste—As defined in RCRA the term “solid waste” means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under the Clean Water Act, or special nuclear or byproduct material as defined by the Atomic Energy Act of 1954.

Spectrum Analyzer XRF is a type of XRF analyzer which provides the operator with a plot of the energy and intensity of both “K” and “L” x-rays, as well as a calculated lead concentration.

Standard—Used in two ways in this manual: (a) Levels established by law or regulation, such as 1.0 mg/cm² (b) materials to which known quantities of lead have been applied; used to evaluate the accuracy and performance of the XRF analyzer, usually called Standard Reference Materials. Standard Deviation—A measure of the precision of the readings, the average deviation of the deviations from the mean. The smaller and standard deviation, the more precise the analysis, and the less variation there is when an analysis is repeated. The standard deviation is calculated by first obtaining the mean (arithmetic average) of all of the readings on a surface. A formula is then used to calculate how much the values vary from the mean (standard deviation = the square root of the arithmetic average of the squares of the deviation from the mean). Many hand calculators have an automatic standard deviation function.

Storage—The holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere. Substrate—A surface upon which paint or varnish has been or may be applied. Examples of substrates include wood, plaster, metal, and drywall. Substrate Effect—The returning of backscattered radiation from the paint, substrate or underlying material to the XRF analyzer. This radiation when counted as lead x-rays by an XRF analyzer may be assigned to SEL or bias. The inspector may have to compensate for this effect when using direct reading XRF analyzers.

TCLP—Toxic Characteristic Leaching Procedure, see EP Tox Test. Transporter—Any person engaged in the off-site transportation of hazardous waste.
Appendix 1—State and Local Lead Laws

Summary of State Lead-Based Paint Statutes

The following constitutes a brief summary of state statutes that the Department of Housing and Urban Development is aware of pertaining to lead-based paint prohibition, testing and abatement. This list may not be complete. We advise you to independently investigate whether your state or locality has a law or regulation concerning lead-based paint or lead poisoning. Also, the summaries contained here may not set out all aspects of the statutes. We advise you to locate the particular statute cited and examine it thoroughly.

1. Arizona.
   a. Citation. ARIZ. REV. STAT. ANN. § 36-1071 to § 36-1076 (West 1986).

   Summary. The Arizona lead-based paint statute is located in the public health and safety title of the state code. Lead-based paint is defined as any paint containing more than five-tenths of one percent lead metal by weight (calculated as lead metal) in the total nonvolatile content of liquid paints or in the dried film of paint already applied. The statute primarily authorizes the state department of health services to conduct programs to prevent, detect and treat lead poisoning and to set regulations requiring physicians to report cases of lead poisoning. The law also prohibits the use of lead-based paint under particular circumstances, but does not discuss testing or abatement procedures.

2. Arkansas.

   Summary. The Arkansas lead-based paint statute is located in the public health and welfare title of the state code. Lead-bearing substance is defined as any paint, lacquer, glaze or any other applied surface coatings, putty, plaster, structural material, or similar substance which contains more than five-tenths of one percent lead metal by weight in the total nonvolatile contents of the substance, or any such substance containing an amount of lead exceeding five-tenths of one percent hereafter may be established by federal law or regulation. The Department of Health is to develop a screening program to identify children under the age of six with lead poisoning or potential lead poisoning and to notify the parent or guardian of the condition. The Department is to then investigate the lead hazard in the place of residence and frequent occupancy, to notify the owner and occupant of the lead hazard in writing, and if necessary, to require discontinuance of the lead hazard within thirty days. Acceptable methods of lead-based paint abatement are to be set out in the statute. An owner of a dwelling unit may not retaliate against the occupant of an affected unit with eviction or threat of eviction because of the presence of lead hazards.

3. California.

   Summary. This narrow statute is located in the California health and safety code. The statute states that the Department of Health Services shall design a screening program for lead exposure in children less than seven years old in migrant labor camps where lead-based paint has been identified.
   b. Citation. CA Health and Safety Code § 30710.5 (Deering 1988 Supp.).

   Summary. This provision indicates that housing authorities acting in good faith will not be liable for any injury caused by the presence of lead-based paint prior to January 1, 1989.


   Summary. This statute, located in the zoning, planning, housing, economic development and human resources title of the Connecticut code, is one of six lead-based paint statutes in this state. This provision indicates that the state may provide financial assistance to persons who wish to remove lead-based paint.

   Summary. Possible testing for lead-based paint poisoning is included in this statute as part of a general requirement that health assessments be carried out by local or regional boards of education for children prior to public school enrollment.

   Summary. This statute indicates that before a family day care home registration is granted, the Department of Human Resources shall inspect the premises for evident sources of lead poisoning.

   Summary. This statute states that physicians must report cases of lead poisoning. Upon receiving such a report, the local Director of Health shall investigate the source of the lead and report the results of this investigation to the local building official, who shall require that actions be taken to abate the lead hazard and, if necessary, relocate occupants of the dwelling. This statute also contains provisions concerning lead screening and education programs and indicates that owners of dwellings in which children under six reside must abate existing lead paint.

   Summary. These provisions, located in the consumer protection title of the Connecticut code, essentially state that paint may not be used in tenement or municipally owned housing unless it is in compliance with federal standards, including standards set out in the Lead-Based Paint Poisoning Prevention Act.

   Summary. This provision is located in the landlord and tenant title of the Connecticut code. The law indicates that paint that does not conform to federal standards or is cracked, chipped, blistered, flaking, loose or peeling is a health hazard on accessible surfaces of any property used for human habitation and shall constitute...
noncompliance with section 47a-7 concerning landlord responsibilities.

5. Delaware.
   Summary. This provision of the Delaware state housing code states that lead-based paint with a lead content of more than 0.5 percent shall not be applied to any interior or exterior surface of a dwelling or dwelling unit, including fences and outbuildings upon any premises.

   b. Summary. This extensive lead poisoning prevention act is located in the public health and safety title of the Illinois code. Lead bearing substance is defined as any paint or other surface coating material containing more than five-tenths of one percent lead by weight (calculated as lead metal) in the total non-volatile content of liquid paint, or such lower standard for lead content in residential paint as may hereafter be established by Federal law or regulation, or more than one milligram per square centimeter in the dried film of paint previously applied. The statute prohibits the use of lead bearing substances on interior or exterior surfaces of a dwelling or structure used for the care of children. The statute also states that physicians must report cases of excessive lead in the blood to the Department of Public Health. A representative from the Department will inspect the dwellings of individuals with lead poisoning for lead bearing substances. Upon a determination that lead exists in a dwelling in which small children reside, the Department shall notify the owner and occupants of the condition and if the substances are accessible to small children, require that the substances be removed, replaced or covered within thirty days in a manner prescribed by the Department.

7. Kentucky
   Citation. KY. REV. STAT. § 211.900 to § 211.905 (Michie 1962 and 1988 Supp.).
   Summary. This lead poisoning prevention statute is set out in the public health title of the Kentucky code. Lead-based substance is defined as any substance containing more than 0.06% lead by weight of nonvolatile content (as set out in the provision prohibiting the use of lead-based paint at § 217.801 of the Kentucky code). This statute sets out in detail procedures for testing at risk persons under the age of six for lead-based paint poisoning and for requiring physicians to report cases of lead poisoning. The Cabinet for Human Services shall also inspect dwellings for lead-based paint when notified that an occupant has an elevated blood lead level and if lead is found to exist, the owner shall be notified and required to abate the substance within thirty days in a manner that will not endanger the inhabitants. If the owner fails to abate the lead hazard within thirty days, a notice of the existence of the hazard and that the dwelling is unfit for human habitation for persons under six will be posted on the dwelling. A determination by the Cabinet for Human Resources that a child under six is in immediate danger from lead-based paint in a dwelling unit will be cause for release from a rental agreement for the occupant.

8. Louisiana
   a. Citation. LA. STAT. ANN. § 40:1299.20 to § 40:1299.29 (West 1977 and 1989 Supp.).
   Summary. This extensive lead-based paint poisoning prevention and control act is set out in the public health and safety title of the Louisiana code. The act sets out provisions for testing children under six for lead poisoning and mandatory reporting by physicians of lead poisoning cases. The state is also to establish a program for the detection of lead paint in appropriate dwelling where victims of lead poisoning reside or upon request of occupants. Upon notification that a particular dwelling contains dangerous levels of lead-based paint, the owner is required to remove this lead so that it is inaccessible to children under six or the mentally retarded. There is also a provision in this statute prohibiting the use and sale of lead-based paint for interior surfaces of a dwelling or exterior surfaces exposed to children under six.

9. Maine
   a. Citation. ME. REV. STAT. ANN. § 1314 to § 1325 (West 1980 and 1988 Supp.).
   Summary. This lead poisoning prevention and control statute is located in the human services title of the Maine code, defines lead base substance as any paint, plaster, or other surface material or substance containing more than .5% lead by weight, calculated as metallic lead, in the total nonvolatile content. The statute has typical provisions prohibiting use of lead-based substances on any exposed surface of a dwelling or child care facility. Providing for a lead screening program for children between one and six, and requiring physicians to report cases of lead poisoning. The Department of Human Services shall inspect dwellings for lead base substances after being notified that an occupant of the dwelling has lead poisoning. If the owner fails to remove lead-based paint or a child care facility and gives the health authority the right to inspect for such lead paint. Under the Federal Hazardous Substance Act. The statute prohibits the use of a lead-based substance in a dwelling unit or a child care facility and gives the health authority the right to inspect for such lead paint.

10. Maryland
    a. Citation. MD. CODE PUB. GEN. LAWS, Environment, § 6-301 to § 6-303 and § 6-601 to § 6-608 (Michie 1987 and 1988 Supp.).
    Summary. The state of Maryland prohibits the use of lead-based paint in interior surfaces, exterior surfaces where children will be exposed and on porches, and sets out requirements concerning reporting of lead poisoning cases by physicians. The code also creates an advisory council to explore the problem of lead poisoning.
    b. Citation. MD. CODE PUB. GEN. LAWS, Real Property, § 8-211.1 (Michie 1988).
    Summary. This provision states that if a lessor fails to remove lead-based paint from a residential property within 20 days of notice that such lead-based paint exists, the lessee may deposit rent in an escrow account with the clerk of the District Court until the condition has been remedied. A tenant may not be evicted or be subject to an increase in rent in retaliation for exercising this remedy.

11. Massachusetts
    a. Citation. MASS. ANN. LAWS, ch. 111, § 130-A to § 130-A:9 (Michie 1988 Supp.).
    Summary. This extensive lead-based paint poisoning prevention and control statute establishes a state-wide program for the prevention and elimination of lead-based paint poisoning. The law contains procedures for the reporting of lead poisoning cases and for testing children under six years of age for lead poisoning. Dwellings are to be inspected for the presence of dangerous levels of lead paint and orders are to be issued requiring the removal of such a substance. The law also contains a provision prohibiting the use of lead-based paint containing more than six one-hundredths of one per cent lead by weight. An owner of a dwelling containing dangerous levels of lead-based paint is required to remove or cover the paint to make it inaccessible to children under six and to otherwise follow strict guidelines set out in the statute.

12. New Hampshire
    Summary. This lead paint poisoning prevention and control statute is set out in the public health chapter of the New Hampshire code. Lead base substance is defined as any paint, plaster, building material or other substance containing extractable lead in excess of amounts allowed under the Federal Hazardous Substance Act. The statute prohibits the use of a lead-based substance in a dwelling unit or a child care facility and gives the health authority the right to inspect for such lead paint.

13. New Jersey
    Summary. In this lead poisoning law set out in the food and drugs title of the New Jersey code, lead paint is defined as any pigmented, liquid substance applied to surfaces by brush, roller or other means in which the total nonvolatile ingredients contain more than 1% of lead, by weight, calculated as metallic lead. Lead paint on the interior of a dwelling or upon an exterior which is accessible to children is declared a public nuisance in the code. When the Board of Health finds that lead paint exists on an interior surface or an accessible
contains lead at levels in excess of five tenths percent lead by dry weight as measured by atomic absorption spectrophotometry test of a sample or by testing with six to eight percent sodium sulfide solution (lead per total weight measure) or in excess of seven tenths milligrams lead per square centimeter of surface as measured on site by mobile x-ray fluorescence analyzer or comparable equipment (lead per surface area measure).

The statute states that lead-based substances are deemed unsafe when identified on surfaces which are accessible to children age one through six either in a defective condition or on window sills, window frames, doors, door frames, walls, ceilings, banisters, porch railings and other appurtenances. When lead is identified in the above-mentioned circumstances, the state is to confirm the presence of lead by testing and identify such areas in need of correction; if a child occupying the residential property is diagnosed as suffering from lead poisoning, the abatement of the property is an emergency under section 45-24.3-21 of the code.

Rhode Island

a. Citation. R.I. GEN. LAWS § 45-24.3-5 and § 45-24.3-10 (Michie 1998).

Summary. In the Rhode Island housing maintenance and occupancy code, lead-based substance is defined as any paint, plaster, or other building material which contains lead at levels in excess of five tenths percent lead by dry weight as measured by atomic absorption.

New York

a. Citation. N.Y. PUB. HEALTH LAW § 1370 to § 1378 (West 1971 and 1989 Supp.).

Summary. A paint condition conducive to lead poisoning is defined in this statute as any paint or other similar surface-coating material containing lead in a condition accessible for ingestion or where peeling or chipping of the paint or material occurs or is likely to occur. The statute prohibits the use of paint or material containing more than one per centum of metallic lead based on the total weight of the combined solids or dried paint film to any interior surface, window sill, window frame or porch of a dwelling. The statute states that lead-based substances are defined as lead-bearing paint as any paint, lacquer, glaze, or other similar surface-coating material and putty or plaster containing more than six hundredths of one milligram of lead per square centimeter of lead in the total nonvolatile content or in the dried paint film or seven tenths or more milligrams per square centimeter of lead in the dried film of paint already applied as measured by in situ analyser device. The statute prohibits the use of lead base substances in or on fixtures or exposed surfaces of a dwelling or a child care facility. The statute also sets out a program for the testing of children under six years of age for lead poisoning and for the reporting of lead poisoning cases by physicians. Upon being notified that the occupant of a dwelling is suffering from lead poisoning, the Department may inspect for lead. If lead is found, the occupants and owner will be notified of the hazard. The owner must then remove or cover the lead within thirty days in a manner the Department prescribes and in such a way as to not endanger the occupants.

Wisconsin

a. Citation. WIS. STAT. ANN. § 151.01 to § 151.13 (West 1999).

Summary. This statute is in the public health title of the Wisconsin code. The statute defines lead-bearing paint as any paint or other surface coating material containing more than .06% lead by weight, calculated as lead metal, in the total nonvolatile content of liquid paint or more than one milligram of lead per square centimeter in the dried film of applied paint. Lead poisoning is defined as a level of lead in the blood beyond 25 micrograms per 100 milliliters of blood, or the corresponding erythrocyte protoporphyrin levels as determined by the Department of Health and Social Services in Wisconsin. The law prohibits the use of lead paint on an exposed interior surface, an exposed exterior surface of a structure used by children or on a fixture on an exposed surface accessible to children. The statute also requires the reporting of lead poisoning cases by physicians. Upon notification that the occupant of a dwelling is suffering from lead poisoning, the Department may inspect for lead. If lead is found, the occupants and owner will be notified of the hazard. The owner must then remove or cover the lead within thirty days in a manner the Department prescribes and in such a way as to not endanger the occupants.

Appendix 2—Childhood Lead Poisoning Prevention Programs and Educational Resources for Lead Poisoning
CHILDHOOD LEAD POISONING PREVENTION

A RESOURCE DIRECTORY

January 1989

National Center for Education in Maternal and Child Health
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Childhood Lead Poisoning Prevention: A Resource Directory has been compiled by the National Center for Education in Maternal and Child Health to disseminate information about State and local prevention programs and activities.

This publication includes the names of persons who coordinate lead poisoning prevention programs and activities at State and local levels. The names of program coordinators at the State level were provided by State Directors of Maternal and Child Health and Children with Special Health Care Needs. The State lead program coordinators provided names of those persons directing local programs and activities. Detailed information about programs and activities was then requested.

Only States that have provided information on lead poisoning prevention programs or activities are included in the Resource Directory. Alabama, Alaska, The Federated States of Micronesia, Guam, Montana, New Mexico, Nevada, Oregon, South Dakota, Virgin Islands, Washington, West Virginia, and Wyoming reported that they have no lead poisoning prevention programs or activities.

It is hoped that this publication will promote enhanced communication and collaboration among programs and provide an impetus to those States that are presently developing statewide childhood lead poisoning prevention programs.
INTRODUCTION

Although lead poisoning in children was first noted in Australia shortly before the turn of the century, the problem received little attention in the United States until the 1920's when its common occurrence began to be reported. In the years that followed, medical literature clearly documented both the frequency and gravity of childhood lead poisoning in many parts of this country. Almost half a century passed, however, before any national attention was directed at the problem. The U.S. Surgeon General in 1970 issued a statement entitled "Medical Aspects of Childhood Lead Poisoning." This set the stage for the enactment of Public Law 91-695, the 1971 "Lead-Based Paint Poisoning Prevention Act," which authorized Federal financial assistance to communities in developing and carrying out lead-based paint poisoning prevention activities.

Mass screening of children, public education, and other activities under the Act began in Fiscal Year (FY) 1972. For the next 10 years, these activities were funded under a categorical grant program that was administered in the initial year by the Bureau of Community Environmental Management, Department of Health, Education, and Welfare and in subsequent years by the Centers for Disease Control. Sixty-two projects in twenty-five States were developed by FY 1981, and, in that year alone, 535,730 children were screened.

With the passage of Public Law 97-35, the Maternal and Child Health (MCH) Services Block Grant Act and the Omnibus Budget Reconciliation Act of 1981, the administrative responsibility for the prevention of lead poisoning in children was passed to the Division of Maternal and Child Health, Bureau of Health Care Delivery and Assistance, Public Health Service in FY 1982, but the continuation and extension of these efforts were shifted primarily to State Health Agencies with access to MCH Services Block Grant Funds for support.

Under provisions of the MCH Services Block Grant Act, each State sets its own priorities for use of these funds and there has been some variation in the manner in which States have utilized these funds for lead poisoning prevention activities. Overall, screening has expanded under the MCH Block Grant. Data submitted by State Health Agencies to the Association of State and Territorial Officials for FY 1984 indicated that the number of children reported to be screened for lead poisoning had risen to 758,503. A number of States have begun new programs or expanded existing statewide lead poisoning prevention programs, but some have yet to develop initiatives.

Now after almost two decades of concerted effort at preventing this disease, many health workers have come to realize that childhood lead poisoning is a tenacious and complex problem that does not lend itself to an easy solution. Careless and thoughtless application and disposal of this useful but lethal metal since the Industrial Revolution has scattered millions of tons of lead in our environment. As yet, modern technology offers no expedient way to clean up the many dangerous sources of lead exposure for our children. Recent mass screening and intense public education have merely decreased lead encephalopathy and overt lead poisoning but have not resolved the problem of undue lead absorption in children. Each year tens of thousands of children with increased levels of lead in their blood continue to be uncovered by screening programs. An unknown number are...
not identified due to lack of screening in their communities. Even though the vast majority of children uncovered by screening programs today appear to be “asymptomatic,” recent research has indicated that lead is toxic to the young at very “low” levels of exposure and subtle psychoneurological damage at such level is not usually clinically apparent. Health workers must therefore remain vigilant over this treacherous disease and continue their efforts in public education and early identification of children at risk.

This Resource Directory has been prepared by the National Center for Education in Maternal and Child Health in response to the need for a reference guide to program activities and resources in lead poisoning prevention. The Bureau of Maternal and Child Health and Resources Development is pleased to support this important publication. We hope that the Directory will not only serve to facilitate communication and the exchange of ideas by those programs active in the field of childhood lead poisoning prevention, but also encourage health care providers to reassess the needs in their own communities and apply program resources where needs are demonstrated.

Jane S. Lin-Fu, MD
Chief
Genetics Services Branch
Bureau of Maternal and Child Health
and Resources Development
CHILDHOOD LEAD POISONING PREVENTION PROGRAMS AND ACTIVITIES

ARIZONA (P)

State
Department of Health Services
Office of Risk Assessment and Investigation
3008 North Third Street
Phoenix, AZ 85012
(602) 230-5858
Norman J. Petersen, Chief
(The program is run by the State but is not applied statewide. Only three high-risk communities have been screened.)

Local
No Local Programs

CALIFORNIA (P)

State
Department of Health Services
2151 Berkeley Way, Room 515
Berkeley, CA 94704
(415) 540-2669
Lynn R. Goldman, M.D., Medical Epidemiologist

Local
Department of Health Services
Child and Adolescent Health Unit
313 North Figueroa Street, Room MZ-1
Los Angeles, CA 90012
(213) 974-9663
Margo K. Derry, P.S., P.H.N., Coordinator

Toxics Epidemiology Program
2615 South Grand Avenue
Sixth Floor
Los Angeles, CA 90007
(213) 744-3235
Paul J. Papanek, Jr., M.D., M.P.H., Chief

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
COLORADO (P)

State
Department of Health
Medical Affairs and Special Programs
4210 East 11th Avenue
Denver, CO 80220
(303) 331-8373
Robert S. McCurdy, M.D., M.P.H., Director

Local
No Local Programs

CONNECTICUT (P)

State
Department of Health Services
Maternal and Child Health Section
150 Washington Street
Hartford, CT 06106
(203) 566-3287
A. Verdell Bolden, Program Manager

Local
Northeast Health District Lead Program
P.O. Box 145, Route 205
Brooklyn, CT 06234
(203) 774-7350
Bruce Lundgren, Director of Health

Waterbury Lead Program
402 East Main Street
Waterbury, CT 06072
(203) 574-6786
Barbara Todd, R.N., Program Coordinator
Adriano Vega, M.D., Acting Director of Health

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
DELAWARE (P)

State

New Castle County Health Office
Childhood Lead Poisoning Prevention Program
3000 Newport Gap Pike, Building C
Wilmington, DE 19808
(302) 995-8696
Paul Pusey, Program Manager

Local

No Local Programs

DISTRICT OF COLUMBIA (P)

State

Department of Human Services
Lead Poisoning Prevention Program
1411 K Street, N.W., Room 1200
Washington, DC 20005
(202) 727-9870
Ella L. Witherspoon, Program Manager

Local

No Local Programs

FLORIDA (A)

State

Department of Health
and Rehabilitative Services
State Health Office
Maternal, Child, and Special Health Programs
1317 Winewood Boulevard
Tallahassee, FL 32301
(904) 488-2834
John Tolliver, Human Services Program Manager
(The State has a Medicaid EPSDT Program, and through that children are screened for lead poisoning. All screening is provided in 67 county public health units.)

Local

No Local Programs

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
GEORGIA (A)

State

Department of Human Resources
Environmental Health Section
878 Peachtree Street, N.E.
Atlanta, GA 30309
(404) 894-6644
William McGiboney, Environmental Specialist

Local

Richmond County Health Department
1001 Bailie Drive
Augusta, GA 30910-2899
(404) 724-8802, ext. 232
Irene E. Frei, Administrative Assistant

Chatham County Health Department
Lead Poisoning Prevention Program
1317 Bull Street
Savannah, GA 31401
(912) 651-2510
Sylvester Brown, Coordinator

HAWAII (A)

State

Crippled Children's Services
Department of Health
741 Sunset Avenue
Honolulu, HI 96816
(808) 732-3197
Alan Taniquchi, M.D.

Local

No Local Programs

IDAHO (P)

State

Department of Health and Welfare
Division of Health
450 West State Street
Statehouse Mall
Boise, ID 83720
(208) 334-5930
Charles D. Brokopp, Dr. P.H., State Epidemiologist

Local

Panhandle Health District
P.O. Box 108
Silverton, ID 83867
(208) 752-1235
Jerry Cobb, Senior Environmental Health Specialist

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
ILLINOIS (P)

State

Department of Public Health
Division of Family Health
Childhood Lead Poisoning
and Injury Prevention Program
535 West Jefferson
Springfield, IL 62761
(217) 782-0403
Mildred Fort, Program Coordinator

Local

Kane County Health Department
1330 North Highland
Aurora, IL 60506
(312) 897-1024
Jim Burgstrom, Administrator

St. Clair County Health Department
25 Bellevue Park Plaza
Belleville, IL 62223
(618) 277-6600
Pam Simpson, R.N., Coordinator

Boone County Public Health Department
601 North Main Street
Belvidere, IL 61008
(815) 544-2951
Peggi Ann Maher, Coordinator

Stickney Township Public Health District
5635 State Road
Burbank, IL 60459
(312) 424-9200
Kenneth Rehnquist, Administrator

Fulton County Health Department
700 East Oak Street
Canton, IL 61520-3157
(309) 647-1134
Robert Klutts, Administrator

Macoupin Health Department
227 East First South Street
Carlinville, IL 62626
(217) 854-7272
Hilda June Weise, R.N., Coordinator

Greene County Health Department
310 Fifth Street
Carrollton, IL 62016
(217) 942-6961
Rollin Adams, Administrator

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
Local

Hancock County Health Department
73 South Adams
P.O. Box 357
Carthage, IL 62321
(217) 357-2171
Mary Jo Ray, R.N., P.N.P., Maternal and Child Health Coordinator

Champaign-Urbana Public Health District
710 North Neil Street, Box 1847
Champaign, IL 61820
(217) 352-7650
Gale Fella, Administrator

Monroe-Randolph Bi-County Health Department
1227 State Street
Chester, IL 62233
(618) 826-5007
Pat Piercy, Administrator

Chicago Department of Health
Lead Poisoning Program
3026 South California
Chicago, IL 60608
(312) 254-3968
Cindy Lee Fischer, Director

Dewitt-Piatt Bi-County Health Department
122 East Main Street
Clinton, IL 61727
(217) 935-3427
Richard Innis, Administrator

Vermillion County Health Department
R.R. 1, Box 12-B, Tilton Road
Danville, IL 61832
(217) 446-4536
Stephen Laker, Administrator

Lee County Health Department
144 North Court
Dixon, IL 61021
(815) 284-3371
Joyce Whorley, R.N., Coordinator

East Side Health District
P.O. Box 2138
638 North 20th Street
East St. Louis, IL 62202
(618) 874-4713
Felicia Carr Musick, R.N., Program Coordinator

Effingham County Health Department
901 West Virginia
P.O. Box 685
Effingham, IL 62401
(217) 342-9237
Ted Crump, Administrator

Egyptian Health Department
Route 3, Rox 90-A
Eldorado, IL 62930
(618) 273-3326
Allen Kelly, Administrator

Evanston Health Department
Evanston Civic Center
2100 Ridge Avenue
Evanston, IL 60204
(312) 866-2952
C. Louise Brown, Administrator

Stephenson County Health Department
15 North Galena Avenue
Freeport, IL 61032
(815) 235-8271
Lois Frederick, R.N., Coordinator

(continued)

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
Local

Jo Daviess County Health Department
9483 Route 20 West
Galena, IL 61036
(815) 777-0263
Peggy Jackson, R.N., B.S.N., M.A., Administrator

Bond County Health Department
503 South Prairie
Greenville, IL 62246
(618) 664-1442
James Tucker, Administrator

Mason County Health Department
118 West Market
Havana, IL 62644
(309) 543-2201
Lloyd Evans, Administrator

Morgan County Health Department
446 East State Street
Jacksonville, IL 62650
(217) 245-5111
William Meyer, Administrator

Will County Health Department
501 Ella Avenue
Joliet, IL 60433
(815) 727-8480
Be Jaquez, R.N., Coordinator

Kankakee County Health Department
150 South Evergreen Avenue
Kankakee, IL 60901
(815) 937-7888
Clayton Pape, Public Health Administrator

Henry County Health Department
Route 78 South
R.R. 2, P.O. Box 10-A
Kewanee, IL 61443
(309) 852-0197
C. Sovanski, Administrator

Hygienic Institute
151 Fifth Street
La Salle, IL 61301
(815) 223-0196
Sandra Ernat, R.N., Administrator

Logan County Health Department
2120 West Fifth Road
Lincoln, IL 62656
(217) 735-2317
Connie L. Keelin, B.S.N., Administrator

McDonough County Health Department
505 East Jefferson Street
Macomb, IL 61455
(309) 837-9951
Randall Haut, Administrator

Franklin-Williamson Bi-County Health Department
Williamson County Airport
Marion, IL 62959
(618) 993-8111
Larry Castrale, Administrator

Cook County Department of Public Health
1500 South Maybrook Drive
Maywood, IL 60153
(312) 865-6108
Judith A. Demkowicz, R.N., M.S.N., Program Director

Grundy County Health Department
111 East Illinois Avenue
Morris, IL 60450
(815) 942-9024
Joseph Albin, Administrator

Whiteside County Health Department
18929 Lincoln Road
Morrison, IL 61270-9587
Michael Zurn, Administrator

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
<table>
<thead>
<tr>
<th>Local</th>
<th>Local</th>
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<tbody>
<tr>
<td>Jackson County Health Department</td>
<td>Peoria City/County Health Department</td>
</tr>
<tr>
<td>P.O. Box 307</td>
<td>2116 North Sheridan Road</td>
</tr>
<tr>
<td>Murphysboro, IL 62966</td>
<td>Peoria, IL 61604</td>
</tr>
<tr>
<td>(618) 684-3144</td>
<td>(309) 685-6181</td>
</tr>
<tr>
<td>Sharon Meyer, R.N.</td>
<td>Carolyn Bucher, R.N., B.S.N., Maternal</td>
</tr>
<tr>
<td></td>
<td>and Child Health Team Coordinator</td>
</tr>
<tr>
<td>Jasper County Health Department</td>
<td>Menard County Health Department</td>
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<tr>
<td>106 East Edwards Street</td>
<td>809 Old Salem Road</td>
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<tr>
<td>Newton, IL 62448</td>
<td>Petersburg, IL 62675</td>
</tr>
<tr>
<td>(618) 783-4436</td>
<td>(217) 632-7864</td>
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<tr>
<td>Mary Finley, R.N., Administrator</td>
<td>James Diekoeger, Administrator</td>
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<tr>
<td>McLean County Health Department</td>
<td>Pike County Health Department</td>
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<tr>
<td>905 North Main Street</td>
<td>113 East Jefferson Street</td>
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<tr>
<td>Normal, IL 61761</td>
<td>Pittsfield, IL 62363</td>
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<tr>
<td>(309) 888-5450</td>
<td>(217) 285-4407</td>
</tr>
<tr>
<td>Lorraine Lukert, R.N., Coordinator</td>
<td>Judy Schlieper, R.N., C.P.N.P.,</td>
</tr>
<tr>
<td></td>
<td>Coordinator</td>
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<tr>
<td>Oak Park Department of Health</td>
<td>Livingston County Public Health Department</td>
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<tr>
<td>No. One Village Hall Plaza</td>
<td>R.R. 4</td>
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<tr>
<td>Oak Park, IL 60302</td>
<td>Pontiac, IL 61764</td>
</tr>
<tr>
<td>(312) 383-6400</td>
<td>(815) 844-7174</td>
</tr>
<tr>
<td>Nancy Haggerty, B.S.N., Acting Administrator</td>
<td>Gladys Kohrt, R.N., Health Department</td>
</tr>
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<td></td>
<td>Administrator</td>
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<tr>
<td>Henderson County Health Department</td>
<td>Adams County Health Department</td>
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<tr>
<td>P.O. Box 186</td>
<td>333 North Sixth Street</td>
</tr>
<tr>
<td>Oquawka, IL 61469</td>
<td>Quincy, IL 62301</td>
</tr>
<tr>
<td>(309) 867-2203</td>
<td>(217) 222-8440</td>
</tr>
<tr>
<td>Mary Reed, B.S.N., Administrator</td>
<td>Gene Mann, Administrator</td>
</tr>
<tr>
<td></td>
<td>Dana Sprenger-Trantor, R.N., Director,</td>
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<tr>
<td></td>
<td>Program Development</td>
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<tr>
<td>Ogle County Health Department</td>
<td>Winnebago County Department of</td>
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<tr>
<td>106 South Fifth Street</td>
<td>Public Health</td>
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<tr>
<td>Oregon, IL 61061</td>
<td>401 Division Street</td>
</tr>
<tr>
<td>(815) 732-3201</td>
<td>Rockford, IL 61108</td>
</tr>
<tr>
<td>Holly Scholl, WIC Coordinator</td>
<td>(815) 962-5092</td>
</tr>
<tr>
<td>LaSalle County Health Department</td>
<td>Miriam Warmer, R.N., Coordinator</td>
</tr>
<tr>
<td>717 Etna Road</td>
<td></td>
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<tr>
<td>Ottawa, IL 61350</td>
<td></td>
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<tr>
<td>(815) 433-3366</td>
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<tr>
<td>Robert Tarter, R.S., Public Health Administrator</td>
<td></td>
</tr>
</tbody>
</table>

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
Local

Rock Island County Health Department
2112 25th Avenue
Rock Island, IL 61201
(309) 793-1955
David Cray, Administrator

Shelby County Health Department
1810 West South Third Street
R.R. 2, P.O. Box 54
Shelbyville, IL 62565
(217) 774-9555
Joel Clark, Administrator

Skokie Health Department
5127 Oakton Street
Skokie, IL 60077
(312) 673-0500
Lowell Huckleberry, M.P.H.,
Administrator

Springfield Department of Health
1415 East Jefferson Street
Springfield, IL 62703
(217) 789-2182
Lynne King, R.N., Clinic Coordinator

Christian County Health Department
Courthouse
Taylorville, IL 62568
(217) 824-4113
Cornelia Colonius, Administrator

Cumberland County Health Department
P.O. Box 466
Northeast Corner Court House Square
Toledo, IL 62468
(217) 849-3211
Winona Saathoff, R.N., Administrator

Tazewell County Health Department
R.R. 1, Box 15
Tremont, IL 61568-0015
(309) 925-5511
Gordon Poquette, Administrator

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities

Local

Southern Seven County Health
Department
Route 1
Ullin, IL 62992
(618) 634-2297
Jane Wemsmam, R.N., Director of
Nursing
Steve Westbrooks, Environmental
Health Director

Ford-Iroquois Public Health Department
114 North Third Street
P.O. Box 427
Watseka, IL 60970
(815) 432-2483
John A. Pickering, Public Health
Administrator

Lake County Health Department
3010 Grand Avenue
Waukegan, IL 60085
(312) 689-6789
Barbara Shipman, R.N., Child Health
Coordinator

DuPage County Health Department
111 North County Farm Road
Wheaton, IL 60187
(312) 682-7440
James Paulisson, M.D., Administrator

McHenry County Health Department
2200 North Seminary Avenue
Woodstock, IL 60098
(815) 338-2040
J. Maichle Bacon, Administrator
INDIANA (P)

State
Board of Health
Division of Maternal and Child Health
1330 West Michigan Street
P.O. Box 1964
Indianapolis, IN 46206-1964
(317) 633-0809
Naomi Johnson, R.D., M.S., State Lead Poisoning Program Coordinator

Local
Evansville-Vanderburgh County Health Department
One Northwest Seventh Street
Room 131 Civic Center
Evansville, IN 47708
(812) 426-5765
Julie St. Clair, Project Director

Marion County Health Department
Lead Program
222 East Ohio Street
Indianapolis, IN 46204
(317) 633-9642
Carl Henn, Project Director

Floyd County Health Department
225 City-County Building
New Albany, IN 47150
(812) 948-5340
Cynthia Andres, R.N., Project Director

IOWA (P)

State
Department of Public Health
Division of Family and Community Health
Lucas State Office Building
321 East 12th Street
Des Moines, IA 50319-0075
(515) 281-4914
Theodore D. Scurletis, M.D., Medical Director

Local
Scott County Health Department
428 Western Avenue, Fifth Floor
Davenport, IA 52801-1004
(319) 326-8618
Roma Taylor, R.N., Program Nurse
Christopher Wightman, R.S., Program Sanitarian

Department of Public Health
209 Pearl Street
Council Bluffs, IA 51503
(712) 328-4666
Glenn C. Jackson, R. S., Director
KANSAS (A)

State
Bureau of Family Health and Environment
Forbes Building, Room 740
Topeka, KS 66614
(913) 862-9360, ext. 437
Azzie Young, Ph.D., Director

Local
Polk County Health Department
1915 Hickman Road
Des Moines, IA 50314
(515) 286-3759
Jack L. Schoop, Coordinator

Black Hawk County Health Department
Black Hawk County Child Health Center
403 Sycamore, Suite 3
Waterloo, IA 50703
(319) 291-2732
Mike Prideaux, Coordinator

KENTUCKY (A)

State
Specialized Pediatrics Section
Division of Maternal and Child Health
275 East Main Street
Frankfort, KY 40621
(502) 564-2154
Sarah J. Wilding, R.N., Supervisor

Local
Louisville-Jefferson County Health Department
400 East Gray Street
P.O. Box 1704
Louisville, KY 40201-1704
(502) 625-6520
Michael Meyer III, Lead Program Coordinator

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
LOUISIANA (P)

State
Office of Public Health
Maternal and Child Health Section
P.O. Box 60630
New Orleans, LA 70160
(504) 568-5073
Suzanne Danilson, Administrator

Local
Department of Health
Division of Environmental Health Services
Department of Health
Room 8W02, City Hall
New Orleans, LA 70160
(504) 586-3325
Michael A. Andry, Director

MAINE (P)

State
Department of Human Services
Division of Public Health Nursing
State House Station 11
Augusta, ME 04333
(207) 289-3259
Susan McCoskrie, Director

Local
Public Health Division
Child Health Services Program
389 Congress Street
Room 307
Portland, ME 04101
(207) 773-6922
Lisa Belanger, R.N., M.S., Coordinator

MARYLAND (P)

State
Department of Health and Mental Hygiene
Child Health Services
201 West Preston Street
Third Floor
Baltimore, MD 21201
(301) 225-6749
Bella P. Caplan, Nurse Consultant

Local
Baltimore City Health Department
Lafayette Square
Multi-Purpose Center
1570 West Lafayette Avenue
Baltimore, MD 21217
(301) 396-0138
J. Troy, Coordinator

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
### Massachusetts (P)

**State**

- Department of Public Health
- Childhood Lead Poisoning Prevention Program
- State Laboratory Institute
- 305 South Street
- Jamaica Plain, MA 02130
- (617) 522-3700
- Brad Prenney, Director

**Local**

- Greater Lawrence Community for Action, Council, Inc.
  - Lead Poisoning Prevention Program
  - 350 Essex Street
  - Lawrence, MA 01840
  - (508) 686-4470
  - William O'Donnell, Director
  - Carmen Torres, Assistant Director

- Southeastern Massachusetts University
  - Lead Poisoning Prevention Program
  - P.O. Box D-626
  - 4 Park Place
  - New Bedford, MA 02742
  - (617) 999-9930
  - Carmen Maiocco, Director

### Office of Environmental Affairs

- Trustee of Health and Hospital of the City of Boston
- 818 Harrison Avenue, Mezzanine
- Boston, MA 02118
- (617) 424-5965
- Ronald Jones, Director

- North Shore Children's Hospital
  - Lead Poisoning Prevention Program
  - 75 Highland Avenue
  - Salem, MA 01970
  - (617) 741-1679
  - Carmen Westerband, Coordinator

- Springfield Health Department
  - 1414 State Street
  - Springfield, MA 01109
  - (413) 787-6715
  - John Cipolla, Director

- Visiting Nurses of Greater Springfield
  - Lead Poisoning Prevention Program
  - 600 Berkshire Avenue
  - Springfield, MA 01109
  - (413) 781-5070
  - Amy Dunn, Coordinator

---

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
Lead Poisoning Prevention Program
Housing Allowance Program
145 State Street
Springfield, MA 01103
(413) 781-1251
(800) 332-9667
Don Dunn, Coordinator

Worcester Department of Public Health
Lead Poisoning Control Program
37 Lee Street
Worcester, MA 01602-2120
(617) 799-8589
Robert Peterson, Coordinator

MICHIGAN (P)

State

Department of Public Health/EPSDT
3500 North Logan Street
P.O. Box 30035
Lansing, MI 48909
Susan L. Scheurer, M.D., Rocky Basil, Matt Weaver, Co-Coordinators

Department of Public Health
Lead Poison Prevention Laboratory
3500 North Logan Street
P.O. Box 30035
Lansing, MI 48909
(517) 335-8244
Margo Schafer, Coordinator

Local

Berrien County Health Department
769 Pipestone
P.O. Box 706
Benton Harbor, MI 49022
(616) 926-7121
Don Oderkirk, Environmental Health Director

Kent County Health Department
700 Fuller Avenue, N.E.
Grand Rapids, MI 49503
(616) 774-3030
Douglas A. Mack, M.D., M.P.H.
Public Health Director

Department of Health
Lead Poisoning Control Program
1151 Taylor Avenue
Detroit, MI 48202
(313) 876-4212
John Strauther, Project Supervisor

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
MINNESOTA (P)

**State**

Department of Health  
Division of Maternal and Child Health  
717 Delaware Street, S.E.  
P.O. Box 9441  
Minneapolis, MN 55440  
(612) 623-5653  
Douglas M. Benson, Program Coordinator

**Local**

Hennepin County Community Health Department  
501 Park Avenue, South  
Fourth Floor, McGill Building  
Minneapolis, MN 55415  
(612) 348-2741  
Jan Godes, Epidemiologist

Minneapolis Health Department  
Maternal and Child Health Public Health Center  
250 South Fourth Street  
Minneapolis, MN 55415  
Joan Rambeck, Assistant Coordinator

(P) - Statewide Lead Poisoning Prevention Program  
(A) - Lead Poisoning Prevention Activities
Department of Community Services
Division of Public Health
555 Cedar Street
St. Paul, MN 55101
(612) 292-7741
Win Terrell, P.H.N., Health Educator

MISSISSIPPI (A)

State
Department of Health
Child Health Division
P.O. Box 1700
Jackson, MS 39215-1700
(601) 960-7463
Ernest W. Griffin, Director

Local
No Local Programs

(A) - Lead Poisoning Prevention Activities

MISSOURI (P)

State
Department of Health
P.O. Box 570
Jefferson City, MO 65102
(314) 751-6400
Don Whitehead, Health Program Representative

Local
St. Louis County Health Department
Lead Screening Program
801 South Brentwood Boulevard
Clayton, MO 63105
(314) 854-6000
Lourdes Pardo, M.D., Director

Kansas City Health Department
Lead Screening Clinic
1423 Lindwood Boulevard
Kansas City, MO 64109
Le Ann Glenn, R.N., Director

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
NEBRASKA (A)

State

Department of Health
Bureau of Medical Services and Grants
301 Centennial Mall South
Third Floor
P.O. Box 95007
Lincoln, NE 68509
(402) 471-2907
Douglas Campbell, Director
(The County Health Department, three WIC local agencies, and two Children and Youth Projects currently provide lead screening services in Douglas County using a hematofluorometer. Elevated erythrocyte protoporphyrins are referred for venipunctures with the State Laboratory doing confirmatory blood leads. Abatement)

Local

Douglas County Health Department
Childhood Lead Poisoning Prevention Program
Omaha/Douglas Civic Center
Room 401
1819 Farnam Street
Omaha, NE 68183-0401
(402) 444-7850
Wayne A. Downie, Supervisor

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
and follow-up is provided by Douglas County Health Department.

**NEW HAMPSHIRE (P)**

**State**

Department of Health and Human Services
Childhood Lead Poisoning Prevention Program
Division of Public Health Services
Six Hazen Drive
Concord, NH 03301
(603) 271-4507
Martha M. Turner, Coordinator

**NEW JERSEY (P)**

**State**

Department of Health
Accident Prevention and Poison Control
363 West State Street
CN 364
Trenton, NJ 08625-0360
(609) 292-5666
Edmond D. Duffy, Jr., M.P.H., State Coordinator

**Local**

Camden Health Department
Camden Accident Prevention and Poison Control Program
1800 Pavilion
2101 Ferry Avenue
Camden, NJ 08104
(609) 757-8603
Cheryl Anderson, Coordinator

East Orange Health Department
Lead-Based Paint Poisoning Control Program
143 New Street
East Orange, NJ 07017
(201) 266-5489
Robert Roe, Coordinator

Elizabeth General Medical Center
Childhood Lead Poisoning Control Program
925 East Jersey Street
Elizabeth, NJ 07201
(201) 289-8600, ext. 2300
Barbara Parker, Coordinator

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
Local

Middlesex County Health Department
Lead Poisoning Control Program
60 Main Street
Helmetta, NJ 08828
(201) 521-1402
Roberta Bamrick, R.N., Coordinator

Jersey City Family Health Center
Lead Poisoning Prevention Program
88 Clifton Place
Jersey City, NJ 07304
(201) 547-4567
Madeline Brown, R.N., Coordinator

Long Branch Department of Health
Monmouth/Ocean Counties Lead Poisoning Prevention Program
344 Broadway
Long Branch, NJ 07740
(201) 222-2188
Jeryl Krautle, Coordinator

Burlington County Health Department
Lead Poisoning Control Program
P.O. Box 287
Mount Holly, NJ 08060
(609) 267-1950 or 265-5538
Ginger Valora Mankowski, R.N., Coordinator

Burlington County Health Department
Lead Poisoning Control Program
Woodlane Road
Mount Holly, NJ 08060
(609) 265-5548 or 265-5540
Rocco Vespe, Coordinator

Newark Lead Poisoning Prevention and Control Program
110 William Street
Newark, NJ 07102
(201) 733-7547
Charlene W. Mason, M.S.W., Coordinator

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities

Local

Paterson Division of Health
Childhood Lead Poisoning Control Program
176 Broadway
Paterson, NJ 07505
(201) 881-6919
Helen Gemmell, Coordinator

Plainfield Division of Health
Lead Poisoning Control Program
City Hall Annex
510 Watchung Avenue
Plainfield, NJ 07060
(201) 753-3579
Imelda Chukwu, Coordinator

Division of Health
Lead Screening Program
City Hall Annex
319 East State Street
Trenton, NJ 08608
(609) 989-3204
Henrietta Armstrong, Coordinator

Vineland Community Nursing Service
Childhood Lead Poisoning Prevention Program
111 North Sixth Street
Vineland, NJ 08360
(609) 794-4000
Laurie Bates, Coordinator

Gloucester County Health Department
Lead Poisoning Control Program
Carpenter Street and Allens Lane
Woodbury, NJ 08086
(609) 853-3437
Delle Zelinsky, R.N., Coordinator
NEW YORK (P)

State
Health Department
Childhood Lead Poisoning Prevention Program
Corning Tower, Room 7880
Albany, NY 12237
(518) 474-2749
Susan Solomon, Director

Local
Albany Regional Office
Building 7A, State Campus
Albany, NY 12226
(518) 457-7150
Lavonne Bonser, Maternal and Child Health Consultant Nurse

South Ferry and Green Streets
Albany, NY 12201
(518) 447-4580
William Grattan, M.D., Medical Director

Stueben County Public Health Nursing
Three Pulteney Square
Bath, NY 14810
(607) 776-7631
Kate Rezelman, Pediatric Nurse Practitioner

Broome County Health Department
One Wall Street
Binghamton, NY 13901
(607) 772-2887
Lucy Dirlam, Coordinator

Buffalo Regional Office
584 Delaware Avenue
Buffalo, NY 14202
(716) 847-4531
Catherine Stein, Coordinator

Erie County Health Department
Rath Office Building
95 Franklin Street
Buffalo, NY 14202
(716) 846-7672
Christine O’Leary, Coordinator

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
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<td>Elmira, NY 14901</td>
<td>Newburgh, NY 12550</td>
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<tr>
<td>(607) 737-2028</td>
<td>(914) 562-5832 or 294-7961, ext. 1330</td>
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<tr>
<td>Stanley Holland, M.P.H., Director of Public Health</td>
<td>Maxcy J. Smith, M.D., Deputy Commissioner</td>
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<tr>
<td>Suffolk County Department of Health</td>
<td>New York City Regional Office</td>
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<tr>
<td>225 Rabro Drive East</td>
<td>10 East 40th Street, 11th Floor</td>
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<tr>
<td>Hauppauge, NY 11788</td>
<td>New York, NY 10016</td>
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<tr>
<td>(516) 348-2721</td>
<td>(212) 576-0829</td>
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<tr>
<td>Frances Gentleman, Coordinator</td>
<td>Sandra Rivers, Maternal and Child Health Consultant Nurse</td>
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<td>Ulster County Health</td>
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<td>300 Flatbush Avenue</td>
<td>65 Worth Street</td>
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<tr>
<td>Kingston, NY 12401</td>
<td>New York, NY 10001</td>
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<tr>
<td>(914) 338 8443, ext. 222</td>
<td>(212) 334-7709</td>
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<td>Shelley Grief, R.N., M.P.H., Director of Patient Services</td>
<td>Kenneth Daniel, Coordinator</td>
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<td>New Rochelle Regional Office</td>
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<td>145 Huguenot Street</td>
<td>Main P.O. Box 428</td>
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<td>10th and East Falls Street</td>
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<td>Niagara Falls, NY 14302</td>
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<tr>
<td>(914) 632-4133</td>
<td>(716) 284-3114</td>
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<td>Zoe Luna, Maternal and Child Health Consultant Nurse</td>
<td>Marie Karamanski, Coordinator</td>
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<td>Chautauqua County Department of Health</td>
<td>Cattaraugus County Health Department</td>
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<td>Health and Services Building</td>
<td>302 Laurens Streets</td>
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<td>Mayville, NY 14757</td>
<td>Olean, NY 14760</td>
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<tr>
<td>(716) 753-4312 or 4491</td>
<td>(716) 375-4121</td>
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<tr>
<td>James Metzger, Coordinator</td>
<td>James M. Garvey, M.D., Medical Director</td>
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<td>Marcia Clark, Co-coordinator</td>
<td>Oswego County Health Department</td>
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<tr>
<td>Nassau County Health Department</td>
<td>70 Bunner Street</td>
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<tr>
<td>240 Old County Road</td>
<td>Oswego, NY 13126</td>
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<tr>
<td>Mineola, NY 11501</td>
<td>(315) 349-3554</td>
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<tr>
<td>(516) 535-2260</td>
<td>Judith S. Watson, Supervising Public Health Nurse</td>
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<td>John J. Dowling, M.D., Health Commissioner</td>
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</table>

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
Local
Clinton County Health Department
P.O. Box 769
Six Margaret Street
Plattsburgh, NY 12901
(518) 565-3270
Paula Calkins Lacombe, Coordinator
of Community Health Services

Rockland County Health Department
Sanatorium Road
Pomona, NY 10970
(914) 354-0200
Israel Praiss, M.D., Medical Director

Dutchess County Health Department
County Office Building
22 Market Street
Poughkeepsie, NY 12601
(914) 431-2098
Phyllis George, Director of Nursing

Rochester Regional Office
Bevier Building
42 South Washington Street
Rochester, NY 14608
(716) 423-8101
Karin Duncan, Maternal and Child
Health Consultant Nurse

Monroe County Health Department
111 Westfall Road
Caller 632, Room 832
Rochester, NY 14692
(716) 274-6087
Katherine M. Wylie, Coordinator

Saratoga County Public Health
Nursing Service
13 Woodlawn Avenue
Saratoga, NY 12866
(518) 584-7460
Helen Endres, Public Health
Director

Schenectady City Health Department
City Hall, Room 12
Schenectady, NY 12305
(518) 382-5038
Stephanie L. Scuder, Director of Nursing

Schoharie County Health Department
342 Main Street
Schoharie, NY 12157
(518) 295-8174
Thomas W. Greenlees, M.D., Medical
Consultant

Syracuse Regional Office
677 South Salina Street
Syracuse, NY 13202
(315) 428-4714
Michelle Cravetz, M.S., R.N.C., Maternal
and Child Health Consultant Nurse

Onondaga County Health Department
P.O. Box 1325
421 Montgomery Street
Syracuse, NY 13202
(315) 425-3271
Mary Burdick, Coordinator

Oneida County Department of Health
800 Park Avenue
Utica, NY 13501
(315) 798-5022
Susan J. Carpenter, Coordinator

Jefferson County Public Health
Service
1240 Coffeen Street
Watertown, NY 13601
(315) 782-9284
Dawn Remington, Supervising Public
Health Nurse
Jean Bilow, Director of Public Health

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
Westchester County Department of Health
County Office Building Two
112 East Post Road
White Plains, NY 10601
(914) 285-5130 or 5140
K. Aurelia Raciti, M.D., Coordinator

NORTH CAROLINA (P)

State
Division of Health Services - Lead Program
225 North McDowell Street
P.O. Box 2091
Raleigh, NC 27602
(919) 733-3410
Colleen P. Miller, Lead Epidemiologist

Local
No Local Programs

NORTH DAKOTA (A)

State
Department of Health and Consolidated Laboratories
Division of Maternal and Child Health
Capitol Building
Bismarck, ND 58505
(701) 224-2493
David J. Cunningham, Director

Local
No Local Programs

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
### OHIO (P)

#### State

Department of Health  
246 North High Street  
P.O. Box 118  
Columbus, OH 43266-0588  
(614) 466-1930  
Caroll J. Alston, M.P.H., R.N., Program Administrator

#### Local

Department of Public Health  
State Regional Lead Poisoning Prevention Resource Center  
177 South Broadway  
Akron, OH 44308  
(216) 375-2077  
Richard Montgomery, Coordinator  

City Health Department  
Cincinnati Lead Poisoning  
3101 Burnet Avenue  
Cincinnati, OH 45229  
(513) 352-3052  
Shirley Wilkinson, Coordinator

Cleveland Lead Poisoning Prevention Program  
1925 St. Clair Avenue  
Cleveland, OH 44114  
(216) 664-2324, ext. 56  
Wayne Slota, Coordinator

### OKLAHOMA (P)

#### State

Department of Health  
Pediatric Division  
Maternal Child Health Service  
1000 Northeast 10th Street  
P.O. Box 53551  
Oklahoma City, OK 73112  
(405) 271-4471  
Edd D. Rhoades, M.D., Director

#### Local

No Local Programs

(P) - Statewide Lead Poisoning Prevention Program  
(A) - Lead Poisoning Prevention Activities
PENNYSYLVANIA (P)

State

Family Planning and Childhood Lead Poisoning Prevention Programs
Division of Maternal and Child Health
Department of Health
P.O. Box 90, Room 725
Harrisburg, PA 17108
(717) 787-7440
Alvin H. Tucker, Jr., M.P.H., Director
(The statewide program is centrally administered and is in place in six sites.)

Local

City of Chester
Municipal Building
Fifth and Welsh Streets
Chester, PA 19013
(215) 447-7824
Dave Chakrabarty, Health Officer

Polyclinic Medical Center
Third and Radnor Streets
Harrisburg, PA 17105
(717) 782-2885
W. Stuart Warren, M.D., Director of Pediatrics

Department of Public Health
500 South Broad Street
Philadelphia, PA 19146
(215) 875-5661
Robert L. Davis, Acting Director

Allegheny County Health Department
3441 Forbes Avenue
Pittsburgh, PA 15213
(412) 823-3120
Roy Sterner, Lead Project Coordinator

Automated Health Systems, Inc.
300 Arcadia Court
9370 McKnight Road
Pittsburgh, PA 15237
(412) 367-3030
Fredrick Hanks, Lead Project Director

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
RHODE ISLAND (P)

State

Department of Health
Division of Family Health
75 Davis Street, Room 302
Providence, RI 02908
(401) 277-2312
William O'Connor, Program Planner

Local
No Local Programs

SOUTH CAROLINA (P)

State

Division of Children's Health
Department of Health and Environmental Control
2600 Bull Street
Columbia, SC 29201
(803) 737-4054
Charlotte McCreary, R.N., P.N.P., M.P.H., Nursing Consultant
(The statewide program is carried out in the Child Health Clinic sites in all 46 county health departments.)

Local
No Local Programs

Northeast Pennsylvania Vector Control Association
461 Highway 315
Pittston, PA 18640
(717) 825-7971
Ross Livingstone, Managing Director

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
TENNESSEE (A)

State

Department of Health and Environment  
100 Ninth Avenue North  
Nashville, TN 37219-5405  
(615) 741-7353  
Florence B. Roberts, R.N., Ph.D.,  
Senior Maternal and Child Health  
Nursing Consultant

Local

Community Services  
Memphis/Shelby County Health  
Department  
814 Jefferson Avenue  
Memphis, TN 38105  
(901) 576-7547  
Brenda Kinney, R.N.C., Pediatric  
Nursing Consultant

TEXAS (P)

State

Department of Health  
Bureau of Maternal and Child Health  
1100 West 49th Street  
Austin, TX 78756  
(512) 458-7700  
Hilda Kolva, R.N., Nurse Consultant for  
Child Health  
(The statewide lead screening program  
is the EPSDT medical screening program  
administered by the Department of Human Services.  
A lead screening test is required for children  
sometime between the ages of six months and  
three years. The Texas Department of Health,  
Bureau of Maternal and Child Health, has  
developed follow-up guidelines for the Medicaid  
providers. Environmental assessments are  
made by local or regional health departments.  
Dallas City Health Department screens children  
under six years and pregnant women within  
a prescribed area within one-half mile of two  
smelter sites, each April and September.  
Any other lead screening is done on an as-needed  
basis, upon request of parent and/or physician.)

Local

No Local Programs

(P) - Statewide Lead Poisoning Prevention Program  
(A) - Lead Poisoning Prevention Activities
VERMONT (A)

State
Department of Health
1193 North Avenue
P.O. Box 70
Burlington, VT 05402
(802) 863-7330
Claire LeFrancois, R.N., M.P.H.,
Maternal and Child Health Specialist

Local
No Local Programs

VIRGINIA (P)

State
Division of Maternal and Child Health
Department of Health
109 Governor Street
Sixth Floor
Richmond, VA 23219
(804) 786-7367
Alice S. Linyear, M.D., M.P.H., Director
(Approximately 60 local health
departments have incorporated
iron deficiency-lead screening into
the Child Health-WIC Clinics utilizing
screening with the hematofluorometer.
Elevated erythrocyte protoporphyrins (EP's)
have lead testing performed.)

Local
No Local Programs

WISCONSIN (A)

State
Wisconsin Division of Health
P.O. Box 309
One West Wilson Street
Madison, WI 53701
(608) 266-2670
Gareth R. Johnson, Supervisor
Maternal and Child Health Unit

Local
Bureau of Community Health Services
City of Milwaukee Health Department
841 North Broadway, Room 112
Milwaukee, WI 53202
Paul Pace, Director

(P) - Statewide Lead Poisoning Prevention Program
(A) - Lead Poisoning Prevention Activities
### TABLE 1

**STATE LEAD POISONING PREVENTION PROGRAMS**

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<thead>
<tr>
<th>STATES</th>
<th>Screening</th>
<th>Medical Follow-up Management</th>
<th>Environmental Follow-up Management</th>
<th>Community Education</th>
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(1) for selected areas
(2) have medical consultants who provide consultation to provide MD's.
(3) consultation with Deputy State Health Officers in all three counties.
(4) State funded child health programs which do screenings as part of Well Child Care.
### TABLE 2  
LOCAL LEAD POISONING PREVENTION PROGRAMS

<table>
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<tr>
<th>STATES</th>
<th>SCREENING</th>
<th>SERVICES</th>
<th>MEDICAL FOLLOW-UP MANAGEMENT</th>
<th>ENVIRONMENTAL FOLLOW-UP MANAGEMENT</th>
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(1) Lead screening is done as part of a complete medical evaluation, including nutritional assessment and developmental evaluation.
(2) Some assistance: a) scraping equipment, safety apparel; b) free paint (limited supplies)
(3) Occasionally we are able to place a client in public housing, very limited shelterplace in Indianapolis
(4) No city funding available-Inspections Division works directly with landlords
(5) When no other resources available
(6) But recommend temporary vacating of rooms/shelter units
(7) The Evaluation Center's clinic doctor refers certain patients being treated with Penicillamine to Ranken Jordan Extended Pediatric Care. These referrals are on patients living in unabated houses and who in the judgement of the medical staff have irresponsible parents.
(8) Both screening and environmental programs do community education
(9) Program does not have resources to do the actual abatement but program does monitor the lead elimination process and is responsible for hazard abatement.
(10) Referral by lead program; referred to owner and monitored until abated
(11) Only in situations where child needs immediate treatment and is urgent risk
(12) Supervision and enforcement, no funds for abatement itself
EDUCATIONAL MATERIALS USED
BY STATE AND LOCAL PROGRAMS

State and local lead poisoning prevention programs employ a variety of materials in their patient and professional education efforts. Listed below are materials currently in use in selected programs. Please contact the appropriate State and/or local programs for information about the content and availability of these materials. Refer to Part One for addresses and phone numbers.

The National Maternal and Child Health Clearinghouse (NMCHC) is also a source of relevant publications. *Childhood Lead Poisoning: Current Perspectives, Historical Perspective on Health Effects of Lead*, and *Manual for the Identification and Abatement of Environmental Lead Hazards* are currently available and can be obtained by contacting NMCHC, 38th and R Streets, N.W., Washington, D.C. 20057, (202) 625-8410.

**California Department of Health Services**

- *Lead Poisoning in Children - A Community Problem* (brochure)
- *Lead Poisoning in Children - A Community Problem* (slide show)
- *Get the Lead Out! Lead Based Paint* (brochure)
- *Get the Lead Out! Other Sources of Lead Exposure To Children* (brochure)

**Connecticut Department of Health Services**

- *Lead Booklet for Pregnant Women and Parents with Small Children* (developed jointly by Connecticut Department of Health Services and the Connecticut Section, American Water Works Association, Regional Water Authority)

**Waterbury Lead Program (Connecticut)**

- *Pepper Paint Says Get the Lead Out* (Coloring book in English and Spanish)
Chatham County Health Department (Georgia)

- Danger (brochure)
- Get the Lead Out! (fact sheet)
- If You Rent an Older Home or Apartment Keep This in Mind... (brochure)
- Information Brochure to Parents
- Possible Sources of Lead in the Child's Environment (fact sheet)
- Preventing Lead Poisoning in Young Children (Centers for Disease Control booklet)
- Stop Lead Poisoning - A Sesame Street Guide to Prevention (National Safety Council brochure)
- What Everyone Should Know About Lead Poisoning (Channing L. Bete Co. booklet)
- What You Should Know About Lead Poisoning (fact sheet)

Panhandle Health District I (Idaho)

- Clean Livin' (fact sheet)
- Clean Livin' (filmstrip and viewer)
- Clean Livin' Color and Activity Book
- Lead and Pregnancy (fact sheet)

Chicago Department of Health (Illinois)

- Lead Poisoning - The Danger is Still Very Real! (brochure)
- What Everyone Should Know About Lead Poisoning (Channing L. Bete Co. booklet, English and Spanish)

Cook County Department of Health (Illinois)

- A Parent's Guide to Lead Poisoning in Children (booklet)
Henry County Health Department (Illinois)

- Dear Mom & Dad Lead Poisoning is a Very Serious Business (National Paint and Coating Association booklet)
- What Everyone Should Know about Lead Poisoning (Channing L. Bete Co. booklet)

McLean County Health Department (Illinois)

- Is Your Child Safe From Lead Poisoning? (booklet)
- Lead Poisoning: Fact Not Fiction (booklet, English and Spanish)
- Lead Poisoning Symptoms and Sources of Exposure (fact sheets)

Peoria City/County Health Department (Illinois)

- Dear Mom & Dad Lead Poisoning is a Very Serious Business (National Paint and Coating Association booklet)
- Lead Poisoning: A Coloring Book for Children
- Lead Poisoning: Fact Not Fiction (booklet)
- Lead Poisoning: Symptoms and Sources of Exposure (fact sheets)
- Old Paints and Rural Lead Poisoning - A Problem You Can Solve (Lead Industries Association brochure)
- Stop Lead Poisoning - A Sesame Street Guide to Prevention (National Safety Council brochure)

Winnebago County Department of Public Health (Illinois)

- Dear Mom & Dad: Lead Poisoning is a Very Serious Business (National Paint and Coating Association booklet)
Marion County Health Department (Indiana)

- Get the Lead Out (card)
- My Personal Get the Lead Out Calendar

Scott County Health Department (Iowa)

- High Iron Food Instructions (booklet)
- Lead is a Four Letter Word ...Let's Wipe It Out (brochure)
- Special Notes for Parents of Children Who Have Been Hospitalized for Lead Poisoning (fact sheet)

Louisville and Jefferson County Board of Health (Kentucky)

- LEAD LINES: Information to Aid in the Prevention of Childhood Lead Poisoning (newsletter)

Maine Department of Human Services and City of Portland Health and Human Services

- Childhood Lead Poisoning Awareness (booklet)

Massachusetts Department of Public Health

- Lead Advisory: Lead Law and Regulations (fact sheets)
- Lead Poisoning Facts and Guidelines (brochure)
- The Massachusetts Lead Program: Moving Toward Phase 2 (An issue of Prevention Update from the National Coalition on Prevention of Mental Retardation)
- What is the Massachusetts Lead Law and How Does It Work? (brochure)
Southeastern Massachusetts University

- Lead Poisoning Facts and Guidelines (brochure)
- What is the Massachusetts Lead Law and How Does It Work (brochure)

Berrien County Health Department (Michigan)

- Permanent Removal and Repair of Leaded Surfaces (fact sheet)

Detroit Health Department (Michigan)

- Are You Doing Your Part to Stop Childhood Lead Poisoning? (fact sheet)
- Dear Parent (letter)
- Get the Lead Out (fact sheet)
- High Iron Food Instructions (booklet)
- Some Other Sources of Lead Exposure (fact sheet)

Wayne County Department of Health (Michigan)

- Guide to Possible Sources of Lead (fact sheet)
- Repair Instructions (fact sheet)
- Safety Standards to be Used When Removing Lead Paint from Dwellings (fact sheet)
- Sources of Lead Poisoning (fact sheet)
- Watch out for Lead Paint Poisoning (Public Health Service brochure)
Minnesota Department of Health

- Lead: A Health Problem for Our Children (brochure)
- Lead in the Home Garden and Urban Environments (fact sheet)
- Tips for the Removal of Lead Paint (fact sheet)

Hennepin County Community Health Department (Minnesota)

- Surveillance Reports

City of Saint Paul Department of Community Services (Minnesota)

- How Your Body Makes Blood (fact sheet in Cambodian and Laotian)
- Lead: A Health Problem for Our Children (fact sheet in Cambodian, Hmong and Laotian)
- What is a Z.E.P. Test? (fact sheet in Cambodian, Hmong, and Laotian)

Missouri Department of Health

- Find the Lead...Before Your Child Does (booklet)

City of Saint Louis Department of Health and Hospitals (Missouri)

- Find the Lead...Before Your Child Does (booklet)
- Lead Poisoning Fact Sheet
- Lead: Sources are Everywhere (fact sheet)
- Lead Poisoning Prevention Check-List (fact sheet)
- Safety Precautions To Be Used When Removing Lead Paint or Other Lead Bearing Substances From Dwellings (fact sheet)
- Lead Poisoning Control Law Compliance Methods (fact sheet)
• Don't Burn Painted Wood (fact sheet)
• Decontamination Procedures: Leaded Ashes (fact sheet)

Douglas County Health Department (Nebraska)

• Lead Paint Poisoning in Children (brochure)

New Hampshire Department of Health and Human Services

• Do You Bring Lead Home to Your Children (fact sheet)
• Guidelines for Safe Lead Paint Removal and Covering (booklet)
• Lead Poisoning and Your Child (brochure)
• Recommended Medical Protocol for the Prevention and Treatment of Childhood Lead Poisoning (booklet)
• Recommended Procedure for Obtaining Capillary Blood Samples for Lead Screening (instruction sheet)
• Renovating? Get the Lead Out...Carefully! (poster)
• What's An FEP? (fact sheet)

New Jersey Department of Health

• Children's Hospital of New Jersey Newsletter
• E.P. is Easier to Say Than Erythrocyte Protoporphyrin (fact sheet)
• Lead Lingo (fact sheets)
• Lead Lingo for Parents (fact sheets)
• Lead Poisoning Awareness Guidelines (fact sheet)
• Manual for the Safe Removal of Lead Paint
• Revised Algorithm for Evaluation And Management of Asymptomatic Children Screened for Lead Poisoning (booklet for physicians)
• Sesame Street Prevention Materials (booklet, brochure, record, videotape, fact sheet, produced by the National Safety Council.)
• What Our Students Should Know about Lead Poisoning (fact sheet)
Jersey City Family Health Center (New Jersey)

- Lead Paint Poisoning (U.S. Consumer Product Safety Commission fact sheet)
- Lead Poisoning A Message for Parents of Small Children (National Child Nutrition Project poster)
- Parents: Are Your Walls Poisoning Your Children (U.S. Public Health Service brochure)
- Planning to Renovate (brochure)
- Poison in the Walls (fact sheet, English and Spanish)
- Stop Lead Poisoning: A Sesame Street Guide to Prevention (National Safety Council brochure)
- Wash Your Hands Before You Eat (National Safety Council poster)

Monmouth/Ocean Counties Lead Program (New Jersey)

- Get the Lead Out! (brochure)

Paterson Division of Health (New Jersey)

- Checklist of Possible Sources of Lead (fact sheet, English and Spanish)
- Dear Mom & Dad: Lead Poisoning is a Very Serious Sickness (booklet, English and Spanish)
- Lead Poisoning (booklet, English and Spanish)
- Lead Poisoning Control Program (booklet, English and Spanish)
- Occupations Involving Potential Lead Exposure (fact sheet)

New York State Health Department

- Lead Poisoning Prevention (brochure)
- Removing Lead-Based Paints (booklet)
Broome County Health Department (New York)

- **Dear Mom & Dad: Lead Poisoning is a Very Serious Sickness** (booklet, English and Spanish)
- **Erythrocyte Protoporphyrin (EP) by Extraction** (fact sheet)
- **FEP Screening for Lead Poisoning** (fact sheet)
- **Lead Poisoning Prevention** (brochure)
- **Lead Poisoning Prevention Fact Sheet for Professionals** (fact sheet)
- **Methods of Removing Lead Paint Hazards** (fact sheet)
- **Nutrition fact sheets**
- **Removing Lead-Based Paints** (booklet)
- **Sources of Lead** (fact sheet)
- **Stop Lead Poisoning: A Sesame Street Guide to Prevention** (National Safety Council brochure)
- **We Can All Keep the Lead Out** (fact sheet)
- **Your Child’s Lead Level—What Can You Do About It?** (fact sheet)

Chautauqua County Department of Health (New York)

- **To Ceramic Shop Owners: Are You and Your Family Aware of Possible Lead Poisoning?** (fact sheet)
- **To Whom It May Concern: Are You and Your Family Aware of Possible Lead Poisoning?** (fact sheet)

Erie County Department of Health (New York)

- **Diet and Lead Poisoning** (booklet)
Monroe County Health Department (New York)

- Algorithm for Evaluation and Management of Asymptomatic Children for Lead Poisoning
- Did You Know? (poster)
- Fact Sheet for Parents of Children with Elevated Lead Levels
- Get the Lead Out (coloring book, English and Spanish)
- Get the Lead Out Safely (booklet)
- Get the Lead Out Safely (poster)
- Get the Lead Out Safely (poster)
- Lead Based Paint Can Poison Your Child (poster)
- Lead Poisoning: Fact Not Fiction (booklet, English and Spanish)
- Nutrition: Your Child Needs a Well Balanced Diet (fact sheet)
- Patterns in Nutrition (English and Spanish)
- Permission Slip for Lead Screening

Niagara County Health Department (New York)

- Sources of Lead in a Child’s Environment (fact sheet)

Oneida County Department of Health (New York)

- Places We Find Lead (coloring book)

Onondaga County Health Department (New York)

- The Childhood Lead Poisoning Control Program (brochure)
- A Few Words about Lead Poisoning (booklet)
- Get the Lead Out (sticker given to every child tested)
- Health Warning: Lead is a Poison (fact sheet)
- Lead-Bus (coloring book, English and Spanish)
• To Parents Who are Homeowners (booklet)
• To Parents Who are Renters (booklet)
• Wash Your Hands (fact sheet, English and Spanish)

Ohio Department of Health

• Lead Poisoning Prevention Packet containing:
  - Danger to You and Your Children (brochure)
  - Fact Sheet for Parents
  - Lead Poisoning (brochure)
  - Lead Poisoning: What the Parent Should Know (booklet)
  - Get the Lead Out (coloring book)
  - Not All Poisons Come in Bottles (brochure for parents)
  - Not All Poisons Come in Bottles (brochure for health professionals)
  - Not All Poisons Come in Bottles (brochure for individual removing lead-based paint)
  - Prevention Resource List for Professionals and Consumers
  - We Can All Help Keep the Lead Out (coloring booklet)
  - What You Should Know About Lead Poisoning (brochure)

Akron Health Department (Ohio)

• Childhood Lead Poisoning Prevention (slide-tape series)
• Childhood Lead Poisoning Prevention (film)
• Chips of Death (film)
• Dear Mom & Dad: Lead Poisoning is a Very Serious Sickness (booklet)
• Fact Sheet for Parents
• How to Remove Lead Paint (brochure)
• If You Own an Older Home or Apartment Building Keep this in Mind (brochure)
• If You Rent an Older Home or Apartment Keep this in Mind (brochure)
• Lead Poisoning (booklet)
- Lead Poisoning, The Hidden Epidemic (film)
- Medical Management and Environmental Procedures (film)
- Symposium on Childhood Lead Poisoning (videotapes)
- Watch Out for Lead Paint Poisoning (booklet)

Oklahoma State Department of Health

- What I Need to Know about Lead Poisoning (fact sheet)

Rhode Island Department of Health

- Consent Form for Blood Lead Testing (in English, Spanish, Portuguese, Vietnamese, Hmong, Cambodian, and Laotian)
- Hero I Had My Lead Test (cardboard medal for children)
- Home Visit Protocol
- How to Remove Lead Paint (brochure)
- Important Facts for Parents with Children At Risk for Lead Poisoning (fact sheet)
- Lead is Poison: Screening and Follow-Up Guide Procedure Manual
- “Lead is Poison” Some Important Questions and Answers (fact sheet in English, Spanish, Portuguese, Vietnamese, Hmong, Cambodian, and Laotian)
- Lead Poison How a Healthy Diet and a Simple Test Can Protect Your Child (brochure)
- Monitoring Test (hospital referral for parents in English, Portuguese, and Spanish)
- Playing Safe Helpful Hints for Avoiding Exposure to Lead (brochure)
South Carolina Department of Health and Environmental Control

- *Dear Mom & Dad: Lead Poisoning is a Very Serious Sickness* (booklet)
- *Do You Know the Facts about Lead Poisoning?* (booklet)
- *The Flake and its Secret Plan* (booklet)
- *Teaching Lead Poisoning to Pre-School Children* (fact sheet)

BILLING CODE 4201-33-C
Appendix 3—Units, Terms and Concepts for Lead-Based Paint

Many of the units, terms and concepts used in these Guidelines are new to the users. Most of the measures cited are in the Metric System of measure, rather than the English System that most people in the United States use on a daily basis. Testing and abatement involve scientific concepts that are not part of the everyday thinking of the users of the material presented. For this reason, a brief discussion of the most important concepts will be helpful to the user to develop a feeling for the quantities and terms used.

A-3.1 Terms and Definitions

An atom is one of the smallest units of matter, identifying a specific element. Lead is an element and is composed of atoms of lead, each lead atom behaves the same way when it interacts with other atoms. A molecule can be thought to be a cluster of bound atoms which behave as a unit when interacting with atoms or other molecules. Lead oxide, lead chromate and lead acetate are all lead atoms combined with atoms of other elements to form molecules. These molecules are called lead compounds or lead salts. Lead acetate is a lead compound or lead salt which has a sweet taste and is called “sugar of lead”, it is one of the smallest units of mass. An electron is a negatively charged particle that is associated with an atom. Every element requires a different number of electrons to neutralize the atom’s positive nuclear charge. If we remove an electron from an atom then the atom becomes positively charged and is called an ion.

An x-ray is a type of high energy electromagnetic radiation. A-3.2 Metric Units of Mass and Length

Large units of mass and their abbreviations:

<table>
<thead>
<tr>
<th>Mass Unit</th>
<th>Abbreviation</th>
<th>Conversion to 1 oz</th>
</tr>
</thead>
<tbody>
<tr>
<td>Milligram (mg)</td>
<td>1/1,000 of 1 g</td>
<td>0.5 mg = 1 oz</td>
</tr>
<tr>
<td>Gram (g)</td>
<td>1/28.35 g</td>
<td>1 g = 0.004 oz</td>
</tr>
<tr>
<td>Kilogram (Kg)</td>
<td>1/1000 kg</td>
<td>1 kg = 2.2046 lb</td>
</tr>
</tbody>
</table>

A-3.3 Concentration Units

Weight percent or % by weight (% w/w): The weight of lead in some mass unit per 100 weight units of the total (including lead) sample (in the same mass units). For example, if a paint sample contains 100 mg of lead in 1 g of paint then the paint is 10.0% lead by weight (% w/w). Also, 1 ounce of lead in 10 ounces of paint is 10% w/w lead.

Area concentration: A mass of lead per unit area of the total paint sample, this is independent of the volume (or thickness) of the paint sample. This unit is encountered in measuring paint by portable x-ray fluorescence instruments and laboratory techniques.

A-3.4 Using Terms and Concepts

Testing and Abatement

Some examples will serve to illustrate the concepts and quantities indicated in the previous discussion.

If we consider a paint containing about 12% lead oxide (white lead) in the wet weight which is applied to cover 400 ft² per gallon (12 lb/gal) the paint film thickness can be shown to be about 0.011 in or about 0.3 mls. This paint would have an area concentration of lead of about 1 mg/cm². This assumption cannot be generalized very well to other mg/cm² weight percent lead samples and cannot be easily correlated to an XRF result.

Small units of mass are and their abbreviations:

<table>
<thead>
<tr>
<th>Mass Unit</th>
<th>Abbreviation</th>
<th>Conversion to 1 oz</th>
</tr>
</thead>
<tbody>
<tr>
<td>Microgram (mcg)</td>
<td>1/1,000,000 of 1 g</td>
<td>1 mcg = 0.001 mg</td>
</tr>
<tr>
<td>Milligram (mg)</td>
<td>1/1,000 of 1 g</td>
<td>1 mg = 0.001 g</td>
</tr>
<tr>
<td>Gram (g)</td>
<td>1/28.35 g</td>
<td>1 g = 0.035 oz</td>
</tr>
<tr>
<td>Kilogram (Kg)</td>
<td>1/1000 kg</td>
<td>1 kg = 2.2046 lb</td>
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Weight percent or % by weight (% w/w): The weight of lead in some mass unit per 100 weight units of the total (in including lead) sample (in the same mass units). For example, if a paint sample contains 100 mg of lead in 1 g of paint then the paint is 10.0% lead by weight (% w/w). Also, 1 ounce of lead in 10 ounces of paint is 10% w/w lead.

Area concentration: A mass of lead per unit area of the total paint sample, this is independent of the volume (or thickness) of the paint sample. This unit is encountered in measuring paint by portable x-ray fluorescence instruments and laboratory techniques. The HUD regulatory level is 1.0 mg/cm² or 1000 g/100 ft².

One cannot convert from PPM or % w/w to area concentration (mg/cm²) as measured by an x-ray fluorescence instrument in any predictable way. One reason is that the dilution factor of adding more non-leaded paint layers over an existing leaded one will not change the area concentration. It will change the % w/w. The area concentration is independent of the thickness of the paint layers. The XRF determines the lead mass per unit area as measured by x-ray emission from a lead layer (mg/cm²). The weight percent method measures the percent of lead in the bulk paint films by determining the weight of lead in 100 weights of total paint sample.

Consider the case of many layers of paint each containing 0.5% lead by weight. The theoretical concentration limit cannot exceed 0.5% but if (about) 20 or more layers are present then the correction factor may indicate 1.0 mg/cm² or higher. The 1 mg/cm² regulatory level is, in this case, a more stringent standard than the 0.5% standard.

Blood lead concentrations are typically expressed in units of micrograms per deciliter (µg/dl). A deciliter is 1/10 of a liter.

A-3.4 Using Terms and Concepts

Testing and Abatement

Some examples will serve to illustrate the concepts and quantities indicated in the previous discussion.

If we consider a paint containing about 12% lead oxide (white lead) in the wet weight which is applied to cover 400 ft² per gallon (12 lb/gal) the paint film thickness can be shown to be about 0.011 in or about 0.3 mls. This paint would have an area concentration of lead of about 1 mg/cm². This assumption cannot be generalized very well to other mg/cm² weight percent lead samples and cannot be easily correlated to an XRF result.
in mg/cm². This example is to illustrate that 1 mg/cm² corresponds to a lot of lead in paint—percent levels.

To conceptualize quantities of lead in paint we can make some reasonable assumptions about lead. Assuming a lead pigment density of about 8.0 g/cm³ and a pigment particle size of about 0.1 mm in diameter then the particles are about the size of grains of salt, but heavier. One of these pigment grains will weigh about 30 g. Only about 30 of these grains distributed in 1 cm² will be required to give an area concentration near 1 mg/cm², and actually occupy only a small fraction of the total 1 cm² area. This small amount will usually be visible to the eye, under conditions of good light and contrast, on an abated surface, if present as a post-abatement film, will not melt and vaporize lead in the 1 cm² template drawn above to see if they are visible.)

After abatement 40,000 g/ft² (or about 45 g/cm²) of lead remains and it is overlapped with a 400 ft² per gallon (11 lb/gal wet) "non-lead" paint (4.3 mils thick). The weight percent concentration of lead in the paint film, assuming the lead is "captured" in the film will be about 0.05%. If 1000 g/ft² remains (1.1 g/cm²) then the corresponding weight percent will be about 0.014%. In abating LBP we seek to achieve residues much less than those amounts on the freshly painted surface. We usually will not know the pre-painted surface area concentration of lead after removal. If a removal process results in a pre-painting residue of 1 g/cm² from an initial 1 mg/cm² concentration; the process is 99.9% effective.

There are two different types of checks that the operator should perform to ensure that the instrument is operating properly. First, the XRF should be routinely tested against the manufacturer’s standards at least once, and preferably twice, per day. The instrument should give a reading within the specified tolerance for each, especially the zero standard.

A-4.1 Checking the Operation of the XRF

Each XRF has its own “personality”, and the machines can be temperamental. There are two different types of checks that the operator should perform to ensure that the instrument is operating properly. First, the XRF should be routinely tested against the manufacturer’s standards at least once, and preferably twice, per day. The instrument should give a reading within the specified tolerance for each, especially the zero standard.

Second, the manufacturer’s specifications generally require that the variability to be expected in a single measurement be no greater than 0.5 mg/cm². This can be checked quite simply by taking 3 repeated measurements at the same point. These will generally be different, not necessarily because of operator error or problems with the instrument, but because of the natural variability of XRF measurements. However, too great a variation in the 3 values can provide a reliable indication of problems. If the readings at below these levels, the PHA chooses either to obtain laboratory analysis for the component or to correct the XRF measurement for interference from the substrate. This is accomplished by removing the paint down to the bare substrate, taking three repeated measurements on the bare substrate, averaging these measurements, and subtracting this result from the reading obtained on the paint. The following terminology is often used:

Apparent Lead Concentration (ALC)=Average of 3 paint readings

Substrate Equivalent Lead (SEL)=Average of 3 bare substrate readings

Corrected Lead Concentration (CLC)=ALC-SEL

The NIST study [1] showed that, for practical purposes, the substrate correction removes any bias in the lead concentration reported by the XRF. It is quite possible for the CLC to be negative, because of the variability of the instrument. However, a CLC of 0.9 mg/cm² or less is an indication that the specific XRF does not provide reliable results.
In inspecting the units of a typical housing project, it will generally be possible to establish substrate corrections applicable to all components of the same type in similar units. Thus, for example, all doors in a building may be of the same construction. In such cases, paint need be removed from only one or two of the components in order to determine the substrate correction. This will greatly reduce the number of samples for which paint must be scraped. However, the inspector must be careful to ensure that the substrate truly is the same as one for which an SEL determination has been made. Thus, this approach will generally not be feasible when inspecting a project which consists of a large number of dissimilar buildings.

A-4.1.4 Statistical Rules for Deciding Whether the Lead Level in Paint Exceeds the Standard

Although the techniques of taking 3 repeated measurements, and correcting for interference from the substrate, as described above, greatly improve the quality of the XRF reading, considerable measurement variability remains, especially at lead levels close to the standard of 1.0 mg/cm². This makes it difficult to correctly classify paint with a lead level close to 1.0 mg/cm². Two types of error are possible. The first is a false positive, i.e., classifying the paint as having a lead level above 1.0 mg/cm², when it actually has a lead level below 1.0 mg/cm². The second type of error is a false negative, i.e., a failure to detect a lead level above 1.0 mg/cm². The two types of errors have different consequences. False positives lead to unnecessary abatement, while false negatives may have serious health consequences for resident children.

To minimize the incidence of the two types of errors, the inspector should report his results to the PHA as follows. If a CLC of 1.6 mg/cm² or greater is obtained, then a positive reading is reported. If the CLC is below 0.5 mg/cm², a negative is reported. For CLC’s between 0.5 and 1.5 mg/cm², the result is reported as ambiguous. As detailed in Chapter 4, the inspector should provide the PHA with a summary of his results, specifying, for each type of building component, the number tested, and the number of positive, negative and ambiguous test results. This summary will be used by the PHA to decide on the need for further XRF testing, laboratory confirmation, or abatement.

A-4.2 Instructions for Completing a LBP Inspection Form

Example LBP inspection forms are attached. These forms illustrate the kind of information that should be recorded by inspectors performing assays for lead in paint in buildings. Some of the information, such as number of doors, number of windows, number and types of rooms important in estimating the extent of any abatement indicated by the results of the lead inspection.

Inspection forms have been developed in a spreadsheet format, Lotus 1-2-3, which performs calculations from the data obtained. A copy of the Lotus spreadsheet is available by sending a postcard return envelope and a formatted 5¼ inch, DS/DD, disc to: Mr. Bill McGuire, Buffalo Housing Authority, Buffalo, NY 14204.

Cover Page

This page is designed to be a cover page for the entire unit to be inspected for LBP. The total number of rooms to be inspected should be noted. The number of pages which follow that are relevant to this specific unit should be indicated on this page. The inspector and XRF operators should be noted on this page. The inspector should initial this page and all pages that follow to certify the results of the inspection.

A map of the dwelling unit should be constructed and rooms numbered from left to right (clockwise) from the entry to ensure that the sampled surfaces can be located. Constructing such a map will assist in planning abatement of surfaces which are determined to be hazardous.

All XRF’s which are used in the unit should be standardized both before and after a unit inspection. Each XRF sample should be assigned a number chronologically sequenced which correlates to a number on the map of the room constructed at the beginning of the room inspection. Each sample number should be associated with a specific XRF. In the event that XRF malfunctions, it may be necessary to repeat the analysis on those samples with another, functioning, XRF. For example, if two XRF’s are used, serial #213 and 147.4 then one can be noted as A on the cover sheet and the other B. The samples can then be numbered as A-1-1 for XRF “A”, Room “1”, XRF sample “1”. Other numbering schemes are satisfactory as long as a specific XRF can be associated with a specific XRF sample.
SAMPLE
Project: __________________________ Number of Rooms: _______ Front Page of LBP Survey Data Sheets: _______ Pages Attached
Street: ___________ XRF Mfr.: ___________ Inspection Company: ___________ Serial Numbers of XRFs Used: ___________
Number of Windows: _______ Number of Doors: _______ Number of Bedrooms: _______ Number of Bathrooms: _______ Inspector: _______
Inspectors Notes:

Diagram of Unit:
Label Rooms by Number Clockwise from Entry. Note Unusual Features of Unit.

01 02 03 04 05 06 07 08 09 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80

Federal Register / Vol. 55, No. 75 / Wednesday, April 18, 1990 / Notices
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<table>
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<th>Length</th>
<th>Height</th>
<th>Approx Sampling Time</th>
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<table>
<thead>
<tr>
<th>Label N from Entry</th>
<th>Notes (Key for Codes)</th>
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</thead>
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BILLING CODE 4210-33-C
Data Pages

Spaces are provided to record a maximum of 7 ALCs and 7 SELs per XRF sample for direct reader XRFs, the average and standard deviation of the readings, and the CLC calculated and necessary, and the results of the chemical test used on the paint films. Typically 3 readings of each are sufficient. 2 readings are sufficient if they are greater than 6 mg/cm². The inspector should note which chemical tests were used. The result of at least one single read cycle is recorded and repeated 3 times in the same spot. Successive averages (section A-4.1, above) of multiple readings can also be recorded, provided that the single reading range can be derived from the result to ensure that this range is less than or equal to 1.2 mg/cm².

When a spectrum analyzer with energy resolution greater than about 3 KeV is used to record the sample information and the number of the spot the instrument, the L X-rays can be used for lead screening with a spectrum analyzer, provided that the analyzer has sufficient resolution to differentiate lead from other elements, etc. which could give false positive results. Screening with the L X-rays provides a very rapid, nondestructive, semi-quantitative method. If lead, the L X-ray intensity indicates more than 1.0 mg/cm² of lead is present, the “K” X-ray intensity will indicate a much higher amount. The opposite is not true. The X-ray intensity should be used when quantitative analysis is desired. Sample sheets should be developed to accommodate this type of technology.

A-4.3 Radiation Safety Tips for Portable XRF Analyzers

This introduction to health and safety for XRF operators is meant to convey the minimum information that XRF users should recognize. XRF analyzers use a hermetically sealed radioactive isotope (Cobalt 57) to stimulate fluorescence of lead atoms in paint. The radioactive source is shielded to minimize the operator’s exposure to radiation and to ensure that the XRF radiation is not indiscriminately saturated with source radiation. When XRF analyzers are properly used, the amount of radiation exposure is negligible. However, the following practices are recommended to ensure safe and responsible use of portable XRF analyzers:

1. No one should operate an XRF analyzer unless they have received thorough training, including training in radiological safety principles, emergency procedures, and regulation of XRF devices. A minimum of 2 hours of radiation safety procedures training is recommended.
2. Under no circumstances should the instrument be positioned in such a way that the operator exposes eyes or gonads to direct radiation from the instrument.
3. The instrument must be in the operators possession at all times, either in direct sight or in an area designated secure by the state radiological safety officer. The operator is responsible for the security of the radioactive source. Each XRF analyser to transport an XRF as carry on luggage, contact the specific airline for information. Airlines vary in what they will allow on board a passenger aircraft.
4. Although the amount of radiation exposure from the instrument is very low, it should always be kept as low as possible. Operator exposure to radiation can be reduced by maintaining proper time personnel are near the instrument and by maximizing the distance from it when it is not in use.

For example:
1. Store the instrument in a room not occupied by personnel when not in use.
2. Transports the instrument in the trunk of a car, not on the seat next to personnel. However, do not store the instrument in any area that may reach temperatures which are outside of the range of those specified by the manufacturer.
3. Place the instrument as far away from personnel as possible when not actually operating it; do not put it on a desk or table while preparing paperwork.
4. Be aware of the direction that the radiation travels when the shutter is open and avoid having any part of the body in its path.
5. Don’t lean into the instrument while operating it.
6. Disconnect the battery, and turn off the instrument when it is not in use.

The opposite is not true. "K" X-ray intensity may give false positive results. Screening with the L X-rays provides a very rapid, nondestructive, semi-quantitative method. If lead, the L X-ray intensity indicates more than 1.0 mg/cm² of lead is present, the “K” X-ray intensity will indicate a much higher amount. The opposite is not true. The X-ray intensity should be used when quantitative analysis is desired. Sample sheets should be developed to accommodate this type of technology.

Appendix 5—Laboratory Testing for Lead in Paint Film, Dust, Air, and Soil

A-5.1 Selection of Laboratories to Perform Lead Analysis

This section describes the standard practices associated with good laboratory operation and is intended to help in identifying an appropriate laboratory to perform lead analysis. Currently, there is no lead accreditation program. The PHA needs to be confident in the overall quality of the laboratory selected for lead analysis. Any laboratory selected is responsible for following the quality assurance guidance provided in Appendix 15. In selecting a laboratory, at a minimum, the PHA needs to consider the following: the organizational structure, staff qualifications, facilities and equipment, laboratory quality assurance/quality control (QA/QC) procedures, data handling, document control, and the existence of and adherence to established standard operating procedures (SOPs). As a general rule, a laboratory certified in another area will have a program in place that addresses all these areas, which may be an indication of the quality of their work.

The overall objective of an analytical laboratory, particularly in terms of its organization and personnel, is to provide consistently reliable information to the user community. The laboratory management is responsible for implementing organizational and operational policies and standard operating procedures that ensure achievement of this objective. Members of the laboratory staff are expected to have the education, training, technical knowledge, and experience necessary to perform their assigned functions. A major component of management’s responsibility is the establishment of educational standards and a formal training system for each position. Management is also responsible for writing a Sampling and Analysis Plan that represents the laboratory’s policy.

The laboratory should be organized such that all staff have a clear understanding of their own duties and responsibilities and how their responsibilities relate to the total effort. The organizational structure, as well as laboratory’s responsibilities, levels of authority, job descriptions, and lines of communication related to laboratory activities should be documented and available to all staff.

A QA function is essential to a well-run laboratory. The QA staff ensures that all analyses performed by the laboratory are in compliance with the written Sampling and Analysis Plan. The QA function is accountable to laboratory management as

Quality Assurance Reviews are conducted on-site and include a complete evaluation of the facility, analytical methods, sample management procedures, and QA/QC policies and procedures related to the generation of data for specific analytical and regulatory applications. Internal and external audits include on-site evaluations.

The internal auditing function is the responsibility of the analyst, who monitors continued compliance with the QA/QC program. In addition, on some frequent basis, the QA staff reviews laboratory data and operations for compliance. The results of these internal self-audits must be submitted to the laboratory and, in the case of an accredited laboratory, to the accrediting organization.

Periodically, the external review of a laboratory accredited in some other program would be performed by an assessor from the accrediting organization. The results of this audit would then be submitted to laboratory management with the requirement that a plan be developed for correcting any observed deficiencies. An accrediting organization submits blind samples to the laboratory in what is known as Performance Evaluation Studies.

Laboratory quality control procedures as established in the Sampling and Analysis Plan will, at a minimum, ensure the following:
- That the laboratory can demonstrate proficiency with each analytical method used, including documentation of precision and accuracy, and maintenance of detection limit information.
- That the data package meets all critical analytical requirements such as holding times and calibration validation and, in the case of an accredited laboratory, to the accrediting organization.

Written Standard Operating Procedures (SOPs) should exist for all procedures and analytical methods, including sample analysis, laboratory functions, and auxiliary functions. As procedures and methods must be performed as described in the SOP, and any modification made during a data collection activity must be documented.

The data resulting from sample analysis must be reduced according to the data handling procedures described in the laboratory SOP. The computer programs used for data reduction need to be validated before they are used and the programs verified on a regular basis through spot checks of computer calculations. All data must be reviewed by a second analyst or supervisor, according to the laboratory SOP, to ensure that calculations are correct and to detect any transcription errors. Any errors detected would then be referred to the analyst for corrective action. The data package would be assessed to determine that all critical analytical requirements had been met (e.g., holding times, calibration criteria, etc.), and the data reported in accordance with program requirements.

All information relating to sample analysis, laboratory facilities, equipment, personnel, methods, and procedures must be documented according to document control procedures and maintained for 10 years. The information must be maintained such that an analytical event can be recreated for an audit or an investigation. There should be a retrieval system in place for that purpose.

Documentation must be securely stored in a facility that adequately addresses minimizes its deterioration for the 10-year period. If a facility that conducts testing or an archive contract facility goes out of business before the time period specified, all documentation must be transferred in its entirety to the archives of the sponsor of the analysis.

A-5.2 General Laboratory Testing

Procedures for Lead

This section discusses important issues concerning laboratory analysis for lead such as instrumentation, calibration, quality assurance and quality control, and data reporting.

A-5.2.1 Use of XRF in the Laboratory

XRF for use as a laboratory analysis technique shows significant promise for providing a low cost and rapid method of determining lead levels in paint, soil, and dust. However, peer-reviewed, written XRF analysis methods are currently unavailable. Written methods are needed in order to assure data quality through consistent execution of specific analysis procedures and QA/QC protocols. Lack of commonly sourced reference materials assures the introduction of XRF application to paint, soil, and dust samples. Therefore, use of XRF as a method for lead analysis is not currently recommended as a method to be used by laboratories. Currently, a three-city study (Boston, Baltimore, and Cincinnati) is in progress using lab and portable XRF instruments to measure lead in soil paint and dust. Calibration standards were developed through a cooperative effort involving EPA, USDA, and state laboratories. For further information on this project, contact Dr. T. M. Spitler, U.S. EPA Region 1 Lab Director, 80 Westview Street, Lexington, MA 02173.

A-5.2.2 ICP and AA Laboratory Testing

Procedures for Lead

This section addresses key issues relating to two common laboratory testing procedures procedures for lead. Topics discussed include instrumentation, ashing techniques, interferences, and calibration.

A-5.2.2.1 Laboratory Analysis Methods

Analysis methods for lead all have two main steps: sample preparation and instrumental analysis. To perform quantitative metals analysis by non-XRF atomic spectroscopic techniques (Flame AA, ICP-AES, and GFAA), the sample must be solubilized prior to the instrumental measurement. Components of the samples which are not completely solubilized will not be quantitatively transported through the inlet systems of the analytical instrumentation. This will result in low analyte recoveries. Solubilization of the sample is carried out through digestion during sample preparation. The sample digestion procedure must be capable of breaking up all analyte containing molecular species in order...
to avoid low analyte recoveries. Acids are generally used to perform this task. Nitric acid is capable of oxidizing many organic based samples such as paint provided enough time and heat are applied. However, its use alone provided enough time and heat are applied. Organic based samples such as paint are recommended over methods; using nitric acid plus other oxidative reagents such as hydrogen peroxide plus heat are recommended over methods using nitric acid alone. Perchloric acid is not recommended as an oxidizer because of the explosion hazard associated with this acid.

After samples have been prepared, analysis is completed by making measurements on instrumentation which generate a response related to the quantity of lead in the prepared sample. Different instruments can be used and each instrument has its own unique detection capability for measuring lead in a sample. Typical detection limits for lead are 0.5 mg/L using Flame AA, 0.05 mg/L using ICP and 0.001 mg/L using GFAA. Instrumental detection limits for these techniques are always expressed in mass-volume units because only liquid samples can be directly injected into the instrumentation. Sample or method detection limits are calculated from these instrumental detection limits by multiplying the weight and/or dilution factors resulting from sample dissolution with the instrumental detection limit. In addition, reported limits of quantitation (the level which represents the lowest reportable value) is typically 5 or 10 times above the sample or method detection limit. This is done primarily due to the uncertainty of quantitation which exists in any analysis method as one approaches the instrumental detection limit. Analysis data which is below 5 times the sample detection limit is less accurate than data above this level.

Analysis of dust samples requires lower detection capability than does analysis of paint chips. This is due to lower expected levels of lead in household dust and the difficulty in obtaining sufficient sample size to perform the analysis. It is far easier to collect a gram of paint than a gram of dust in an average home.

Published analysis methods which are recommended for paint are presented in Table A-5.1. Published analysis methods which are recommended for dust are presented in Table A-5.2. Method modifications have been suggested for the execution of any of these methods. Laboratories requested to perform analysis for lead in paint or dust must be instructed to incorporate the method modifications attached to Tables A-5.1 and A-5.2. Analysis requests to any laboratory for lead analysis on paint or dust samples must include specific requests for QA/QC in order to verify data integrity. QA/QC information is presented in Section A-5.2.3. If the analysis method incorporates ashing as part of the sample preparation procedure additional QA/QC is recommended as discussed in the following section.

### Table A-5.1—Recommended Lead Analysis Methods for Paint Chips

<table>
<thead>
<tr>
<th>Method No./Name</th>
<th>Method sample matrix</th>
<th>Instrument technique</th>
<th>Est. sample DL</th>
<th>Sample preparation summary</th>
<th>Recommended method modification (a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>AOAC 5009, 1984</td>
<td>Paint</td>
<td>Flame AA</td>
<td>20 g/g</td>
<td>0.6 g sample, HNO3 @ 170°C in 25 mL</td>
<td>MM1</td>
</tr>
<tr>
<td>ASTM</td>
<td>Paint</td>
<td>Flame AA</td>
<td>20 g/g</td>
<td>Ashing @ 450°C</td>
<td>MM1</td>
</tr>
<tr>
<td>D3505-55a</td>
<td>Water, Soil</td>
<td>ICPAES</td>
<td>5 g/g</td>
<td>HNO3, HCl @ 95°C</td>
<td>MM1</td>
</tr>
<tr>
<td>EPA 1620</td>
<td>Sediments</td>
<td>GFAA</td>
<td>0.1 g/g</td>
<td>HNO3, H2O2 @ 95°C</td>
<td>MM1</td>
</tr>
<tr>
<td>1989</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>MM3</td>
</tr>
<tr>
<td>SW846-3050</td>
<td>Sediments</td>
<td>ICPAES</td>
<td>5 g/g</td>
<td>1 g of sample, HNO3, H2O2, HCl @ 95°C</td>
<td>MM1</td>
</tr>
<tr>
<td>-6010</td>
<td>Solts</td>
<td></td>
<td></td>
<td></td>
<td>MM3</td>
</tr>
<tr>
<td>(meth 7009)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>MM3</td>
</tr>
<tr>
<td>SW846-3050</td>
<td>Solts</td>
<td>Flame AA</td>
<td>50 g/g</td>
<td>1 g of sample, HNO3, H2O2, HCl @ 95°C</td>
<td>MM1</td>
</tr>
<tr>
<td>-7420</td>
<td>Sediments</td>
<td>GFAA</td>
<td>0.1 g/g</td>
<td>1 g of sample, HNO3, H2O2, HCl @ 95°C</td>
<td>MM1</td>
</tr>
<tr>
<td>(meth 7009)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>MM3</td>
</tr>
<tr>
<td>SW846-3050</td>
<td>Sediments</td>
<td></td>
<td></td>
<td></td>
<td>MM3</td>
</tr>
<tr>
<td>-7421</td>
<td>Solts</td>
<td></td>
<td></td>
<td></td>
<td>MM3</td>
</tr>
<tr>
<td>(meth 7009)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>MM3</td>
</tr>
</tbody>
</table>

(a) The following modifications may represent changes from the published method and must be specifically requested of the laboratory performing the analysis to assure execution. These modifications are not a substitute for quality control/assurance procedures such as duplicates and spike addition recovery measurements which should always be requested of the laboratory performing the analysis, but are additional requirements needed to perform accurate lead analysis.

MM1: For Paint chip samples, increase the surface area of the sample by cutting the chips up into very fine pieces using a new clean razor blade against a clean glass surface prior to sample preparation.

MM2: For GFAA analysis: a. Use a matrix modifier consisting of H2PO4 plus Mg(NO3)2 or (NH4)2PO4 plus Mg(NO3)2. b. Do not use HCl for sample preparation. Substitute HNO3 for HCl.

MM3: Perform twice the normal level of QA/QC as described in sections A-5.2.2.1, A-5.2.2.2, and A-5.2.3.

### Table A-5.2—Recommended Lead Analysis Methods for Dust on Wipes

<table>
<thead>
<tr>
<th>Method No./Name</th>
<th>Method sample matrix</th>
<th>Instrument technique</th>
<th>Est. sample DL</th>
<th>Sample preparation summary</th>
<th>Recommended method modification (a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>EPA 1620</td>
<td>Water</td>
<td>ICPAES</td>
<td>5 g/g</td>
<td>HNO3, HCl @ 95°C</td>
<td>MM2</td>
</tr>
<tr>
<td>Draft</td>
<td>Solts</td>
<td></td>
<td></td>
<td></td>
<td>MM2</td>
</tr>
<tr>
<td>1989</td>
<td>Sediments</td>
<td>GFAA</td>
<td>0.1 g/g</td>
<td>HNO3, H2O2 @ 95°C</td>
<td>MM2</td>
</tr>
<tr>
<td>Superfund</td>
<td>Solts</td>
<td>ICPAES</td>
<td>5 g/g</td>
<td>1 g of sample, HNO3 @ 95°C</td>
<td>MM2</td>
</tr>
</tbody>
</table>
A-5.2.2 Use of ashing in sample preparation

The ashing technique consists of weighing a sample into a suitable crucible, pre-drying the sample on a hotplate, and placing it into a muffle furnace at an elevated temperature. Under heat, the sample reacts with oxygen in the air. This breaks up the organic molecules through oxidation and produces oxides of any metals present in the sample which are relatively easy to dissolve with nitric and/or hydrochloric acids. However, some elements are volatile or are commonly present in a volatile molecular compound and can be lost during the ashing process if the temperature is too high and/or the crucibles are heated too long. This volatilization problem can be reduced using an “ash aid” reagent prior to heating. However, volatilization problems, even with the use of an “ash aid” reagent, are common for Hg, Cd, As, Sb, and Pb.

One major difficulty in using ashing as a practical routine method for lead analysis lies with difficulties in properly controlling the procedure. Most muffle furnaces are not well temperature controlled and hot spots within the furnace are common. Use of a furnace with hot spots can result in low recovery of some samples and not in others. In addition, most muffle furnaces used in routine laboratories are rarely calibrated for temperature. Accurate temperature control is critical for performing ashing on samples for lead analysis. Another problem with ashing occurs when moving samples in and out of the furnace. Interior surfaces of muffle furnaces tend to degrade with use. Interior wall flaking is not uncommon and can cause sample contamination. In addition, ashed samples are very light and flabby and can be easily lost through air movement when samples are transferred from the furnace to a sample hood for dissolution. Although ashing can be successfully applied to lead analysis under well controlled conditions [NIST showed good recoveries of lead from paint at 500°C (McKnight, et al., NISTIR 69-4209, 1989)], the practical problems discussed above can lead to random errors in the accuracy of the analysis. If this technique is to be used, increased QA/QC is recommended to help identify if volatilization and other losses have occurred and resulted in reported low recoveries of lead in paint samples.

A-5.2.2.3 Interferences

Interferences in lead analysis are common. Interferences are related to both the sample type and the instrumentation used for the analysis.

Interferences associated with ICP-AES analysis are generally caused by spectral interferences arising from other elements present in the samples. A spectral interference occurs when the absorbing or emitting wavelength of an element in the sample falls within the bandwidth of the element of interest. Spectral interferences are generally more of a problem for ICP-AES than for flame or graphite furnace AA. The largest potential spectral interference for ICP-AES lead analysis is from titanium, which is commonly present in paint at fairly high levels. Spectral interferences can result in a positive bias; in ICP-AES, spectral interferences can result in lead analysis data which are higher than actual. Use of deuterium lamp background correction or Zeeman background correction will correct for background interferences. Laboratories performing GFAA analysis of paint or dust samples must verify and deliver evidence that background correction has been used. Suitable matrix modification must also be used to minimize chloride interferences.

Interferences can result in lead analysis data which are lower than actual. Laboratories performing ICP-AES analysis of paint samples must verify and deliver evidence that spectral interference corrections have been properly applied and that interferences (particularly from titanium) have not affected any lead analysis data. Interference check samples are useful for detecting and estimating spectral interferences.

Interferences associated with GFAA analysis are generally caused by chemical interactions in the atomizer. The most common interference for GFAA lead analysis is a chloride interference. The presence of chloride in the sample (or use of HCl for sample preparation) can lead to signal depression caused by volatilization loss of lead chloride which can result in lead analysis results which are lower than actual. Other interferences may also be a problem for GFAA analysis. Another common interference for GFAA analysis is a background absorption interference. This interference can result in lead analysis results which are higher than actual. Use of deuterium lamp background correction or Zeeman background correction will correct for background interferences. Laboratories performing GFAA analysis of paint or dust samples must verify and deliver evidence that background correction has been used. Suitable matrix modification must also be used to minimize chloride interferences.

A-5.2.2.4 Calibration

Atomic absorption (AAS) instruments measure the amount of light (at a specific wavelength) absorbed by atoms in the ground state. Quantitative determinations of lead levels in atomic absorption are based on Beer’s law, which states that the concentration of the analyte is proportional to the absorbance. Atomic emission instruments (ICP-AES) measure the intensity of light emitted by excited atoms (the plasma serves to excite the atoms). The intensity at a specific emission line is related to the number of excited atoms of the element associated with that emission line. Consequently, both instrument procedures require the use of analytical methods for calculating the amount

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TABLE A-5.2.—RECOMMENDED LEAD ANALYSIS METHODS FOR DUST ON WIPES—Continued

<table>
<thead>
<tr>
<th>Method No./Name</th>
<th>Method sample matrix</th>
<th>Instrument technique</th>
<th>Est. sample DL</th>
<th>Sample preparation summary</th>
<th>Recommended method modification (a)</th>
</tr>
</thead>
<tbody>
<tr>
<td>SW/845-0360</td>
<td>Sediments</td>
<td>ICP-AES</td>
<td>5 g/g</td>
<td>1 g of sample, HNO3 H2O2. HC1 @ 95°C</td>
<td>MM2</td>
</tr>
<tr>
<td>(mth 7000)</td>
<td>Stipets</td>
<td>ICP-AES</td>
<td>1 g of sample, HNO3, H2O2. HC1 @ 95°C</td>
<td>MM2</td>
<td></td>
</tr>
<tr>
<td>SW/845-0350</td>
<td>Sediments</td>
<td>GFAA</td>
<td>0.1 g/g</td>
<td>1 g of sample, HNO3 H2O2.</td>
<td>MM2</td>
</tr>
<tr>
<td>(mth 7000)</td>
<td>Stipets</td>
<td>GFAA</td>
<td>1 g of sample, HNO3, H2O2.</td>
<td>MM2</td>
<td></td>
</tr>
</tbody>
</table>

(a) The following modifications may represent changes from the published method and must be specifically requested of the laboratory performing the analysis to ensure accuracy. These modifications are not a substitute for quality control/assurance procedures such as duplicates and spike addition recovery measurements which should always be requested of the laboratory performing the analysis, but are additional requirements needed to perform accurate lead analysis. MM2: For dust on wipes, modify sample preparation procedure to include drying of the digest after sample dissolution and prior to making the sample up to final volume using a minimum of 3 washes. Washes are to be included in the sample volume. MM3: For GFAA analysis: a. Use a matrix modifier consisting of H3PO4 plus Mg(NO3)2 or (NH4)2PO4 plus Mg(NO3)2. b. Do not use HC1 for sample preparation. Substitute HNO3 for HCl.
or concentration of lead in paint samples from the instrument signal.

The process of calibrating the amount or concentration of lead in a sample from an instrument response measured for that sample is known as calibration. The calibration methods employed by the laboratory have a significant impact on the accuracy of the lead determinations for the samples submitted for laboratory analysis. Flame and graphite furnace AA instruments and ICP-AES instruments are typically calibrated by relating the instrument responses observed at calibration standards to the known amount of the analyte in the standard. This relationship calculated for the sample is known as calibration. The responses observed at calibration standards calibrated by relating the instrument responses observed at calibration standards to the known amount of the analyte in the standard is known as calibration. The responses observed at calibration standards calibrated by relating the instrument responses observed at calibration standards to the known amount of the analyte in the standard is known as calibration.

The accuracy of the estimated concentrations from the calibration curve depends on many factors, including the following:

1. Instrument precision,
2. Number and concentration levels of calibration standards,
3. Instrument drift,
4. Sample contamination of the instrument, and
5. Chemical, matrix, or spectral interferences present in the sample.

While manufacturers' guidelines should be followed for profiling (optimizing response) and calibrating ICP-AES, flame AA, and furnace AA instruments, the basic procedures are as follows: Calibration standards are prepared by diluting stock metal solutions using the same acids and reagents and concentrations used for the samples. For best results, calibrations standards should be prepared fresh each time a batch of samples is analyzed. The number and concentration levels of calibration standards is very important. A blank and at least three standards extending from the absorbances measured for the calibration data.

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The accuracy of the estimated concentrations from the calibration curve depends on many factors, including the following:

1. Instrument precision,
2. Number and concentration levels of calibration standards,
3. Instrument drift,
4. Sample contamination of the instrument, and
5. Chemical, matrix, or spectral interferences present in the sample.

While manufacturers' guidelines should be followed for profiling (optimizing response) and calibrating ICP-AES, flame AA, and furnace AA instruments, the basic procedures are as follows: Calibration standards are prepared by diluting stock metal solutions using the same acids and reagents and concentrations used for the samples. For best results, calibrations standards should be prepared fresh each time a batch of samples is analyzed. The number and concentration levels of calibration standards is very important. A blank and at least three standards extending from the absorbances measured for the calibration data.

The accuracy of the estimated concentrations from the calibration curve depends on many factors, including the following:

1. Instrument precision,
2. Number and concentration levels of calibration standards,
3. Instrument drift,
These limits must be determined no earlier than 30 days before start of analysis, and must be updated at least once every three calendar months as the analysis continues. In addition, the detection limit must be recalculated whenever the instrument is adjusted to where the detection limit may be affected. The detection limit for lead must meet the minimum detection limit of 5 pg/ml for Atomic Absorption.

The detection limits are determined by analysis of a solution of lead and reagent water; the solution should contain a known lead concentration of 3-5 times the suggested lead concentration of the standard is the concentration at or near the regulatory limits. Sensitivity associated with a desired range of lead concentration levels to consider. Sensitivity will vary according to the type of matrix used and the model of spectrometer.

The laboratory operator can test for optimization of the instrumental parameters by performing a sensitivity check. A sensitivity check is a concentration of lead associated with an absorbance of 0.2 absorbance units under optimum conditions and a given wavelength. The sensitivity check can allow the operator to determine whether the instrument is performing up to specifications.

The initial precision and accuracy of the system can be determined by a simple preliminary procedure. Four 500 mL aliquots of reagent water are analyzed by the primary method, each spiked with lead at the same concentration or near the regulatory limits of 0.5% lead by weight. The relative standard deviation (RSD) of the percent recoveries among the four aliquots is obtained. If the RSD (in percentage terms) is not less than 20% for or 3% for the EPA analysis, system performance for lead is unacceptable at the regulatory limits, and any problems must be corrected before continuing to analyze samples.

A.5.2.3.3 Calibration Checks and Blanks

During the course of the analysis procedure, calibration checks should be performed to assure that an accurate estimate of the calibration curve is being used and that any drift in the calibration curve is identified. The calibration curve is verified by preparing three standard verification samples, each with a known amount of lead concentration falling within the range of the calibration curve. One of the verification standards is set at the regulatory limits of 0.5% lead by weight (before sample preparation) which will fall within the calibration limits. (The midpoint of the calibration curve should correspond to approximately 1% lead content by weight.)

The verification standard used in a given verification run is selected in an alternating way among these three standard samples. The following procedures are used to verify the accuracy of the calibration curve during the analysis process (where further information on the verification standards are discussed):

The Initial Calibration Verification (ICV) is also known as an instrument check standard. The accuracy of the initial calibration is verified by the analysis of a certified ICV standard, obtained from a source external to those standards used in the calibration. ICV standard solutions are prepared in the same acid matrix as the calibration standards at a concentration other than that used for instrument calibration, but within the calibration range. The initial calibration verification is run immediately after the instrument has been calibrated and each time the system is set up. The results must agree within 10% of the expected concentration based on the calibration curve. When the 10% criterion is not met, recalibration and reverification must be performed after the problem has been corrected.

Another instrument check standard is the Continuing Calibration Verification (CCV). To ensure accuracy during each analysis run by verifying the working calibration curve, a common CCV standard is analyzed at a frequency of one per 10 samples or every two hours during an analysis run, whichever is more frequent. The CCV standard is also run at the beginning of the run and after the last analytical sample. The CCV standard may be an the accuracy of the calibration curve. If the 10% criterion is not met, recalibration and reverification must be performed after the problem has been corrected.

Typical detection limits for Atomic Absorption are 0.02 mg/L for Flame Atomic Absorption, 0.00005 mg/L for Graphite Furnace Atomic Absorption, and 0.025 mg/L for ICP analysis. Such limits are meant to be used as guides to determine a preferable technique to use in a particular situation.

In Atomic Absorption analyses, sensitivity is defined as that concentration of lead which produces an absorbance percentage of 1%, or equivalently, 0.0044 absorbance units. Sensitivity is obtained by observing the absorbance of a known concentration of lead and calculating:

\[
\text{Sensitivity} = \frac{\text{Conc of lead} \times 0.0044}{\text{Measured absorbance of lead}}
\]
processing of the field samples. The absolute value of the PB should be less than or equal to the minimum level of detection. If not, any samples associated with this blank having concentrations below ten times the blank concentration and above the minimum detection limit must be reanalyzed and reanalyzed.

A-5.2.3.4 Interference Checks

The presence of background correction factors in the ICP analysis method can be verified, and the magnitude of interferences estimated, by the analysis of Interference Check Samples (ICS). The ICS contains known concentrations of any interfering elements ("interferents") expected in the analysis method. The ICS consists of two solutions: Solution A (interferents only) and Solution AB (lead mixed with the interferents). The materials used in the ICS are traceable to EPA or NIST material. The ICS is run (with Solution A followed by Solution AB) at the beginning and end of each analysis to run or a minimum of twice per 8-hour working shift, whichever is more frequent. The results for Solution AB must agree within the control limit of 20% of the true value for interferents found in the ICS. If this criterion is not met, all samples analyzed since the last successful ICS must be reanalyzed after the problem is corrected. If the true values are not available to the laboratory, the mean concentration in the ICS is obtained for each interferent based on five consecutive runs of the ICS.

In terms of the causes of interferences, ICP analysis interferences are generally the result of spectral interferences arising from other elements present in the samples. The largest potential spectral interference for ICP lead analysis is from titanium commonly present at fairly high levels in paint. Spectral interferences generally result in lead analysis data which is higher than actual. Laboratories performing ICP analysis of paint samples must verify and deliver evidence that spectral interference corrections have been applied and that interferences (particularly from titanium) have not affected the reporting of any lead analysis data results. For lead, a major interferent at the 100 mg/L level for ICP is aluminum, which has an analytic concentration equivalent of 0.17 mg/L.

GFAA analysis interferences are generally caused by chemical interactions in the atomizer. The most common interference for GFAA lead analysis is a chloride interference. The presence of chloride in the sample (or use of HCL for sample preparation) can lead to signal depression which can result in lead analysis results which are lower than actual. Other interferences may also be a problem for GFAA analysis. Another very common interference present in GFAA analysis is a background absorption interference. Those interferences can result in lead analysis results which are higher than actual. Use of deuterium lamp background correction or Zeeman background correction will correct for background interferences. Laboratories performing GFAA analysis of paint or dust samples must verify and deliver evidence that background correction has been used and a suitable matrix modifier to minimize chloride interferences has also been used.

A-5.2.3.5 Spiked and Duplicate Samples

The Spike Sample Analyses (SSA) determine the extent of instrument bias in the analysis procedure. The SSA consists of spiking on a non-field blank sample with a known amount of lead (determined by S) before the sample is digested or distilled. The value of S should be taken to be the regulatory limit of 0.5% lead by weight. Before the sample is spiked, the concentration in the sample (denoted by Cm) is obtained. Cm is taken to be zero if the lead content is less than the instrument detection limit. The concentration of the spiked sample is then determined by the analytical method and is denoted by Cp. The percent recovery is calculated as:

\[ \text{Percent Recovery} = \left( \frac{C_p - C_m}{C_m} \right) \times 100\% \]

An acceptable range of percent recovery is 75% to 125%. A matrix effect can be suspected if the results of the SSA do not fall within the acceptable percent recovery limits. In such a situation, the course of action depends on the analysis method. For ICP, the SSA should be repeated. If unacceptable percent recoveries persist, a GCV sample should be run to determine whether the calibration criteria are being met, and if not, a recalibration and reverification should be performed. If SSA continues to produce unacceptable percent recoveries after the calibration check, the procedure should be repeated after diluting the sample by a factor of ten. For atomic absorption analyses, the method of standard additions (MMA) should be used in analysis of the sample. If the correlation coefficient of the MMA is less than 0.995, the sample should be diluted by a factor of ten and the MSA repeated. Spike sample analysis should be performed on 10% of the analyzed samples, or at least once per analysis set, whichever is more frequent. Spike sample analysis should also be performed whenever a new sample matrix is considered.

The Duplicate Spike Sample Analyses (DSSA) perform a third aliquot of the sample analysis set, whichever is more frequent. DSSA obtain a third aliquot of the sample used in the SSA, using the same analysis scheme, and splits the sample into two duplicate samples. If S and R are the sample values of the duplicate spike samples, the relative percent difference of the two duplicates is calculated as:

\[ \text{RDP} = \left( \frac{|S - R|}{S + R} \right) \times 100\% \]

The acceptable range for precision is a RDP of 20%. Split and duplicate samples are performed to check for precision in the analytical methods. A sample is generally divided into three samples to generate split samples. Split samples are obtained and analyzed once in every 10 samples, as a check for precision in the instrument. For each solution, three determinations are obtained for each of the three split samples. As a result, a total of 3 x 3 = 9 measurements are obtained in a split sample procedure. Duplicate samples are samples which have identical sample preparation and are analyzed by the same analytical method, and are not necessarily split samples. While split samples determine instrument precision, duplicate samples determine precision in the analysis method. Duplicate samples should be analyzed once for every five samples, although the sample load more clearly dictates the frequency.

Precision is usually estimated by the relative standard deviation (RSD) of replicate measured concentrations. In general, the three analysis methods used for LBP (ICP, GFAA, and FFA) should achieve RSDs of between 3% and 20% when considering analytical precision. The RSD usually changes with concentration level. Therefore, precision should be represented as a function of concentration. However, it may be sufficient to determine the precision only for concentrations in the vicinity of the regulatory limits.

A-5.2.4 General Data Reporting Procedures for Lead

A great amount of information relating to field sample analysis and QA/QC sample analysis, along with information on laboratory facilities, equipment, personnel, methods, and procedures must be documented by the laboratory, so that an analytical event can be recreated for an audit or an investigation. The documented information must be maintained under the supervision of the laboratory for a period of 10 years. There should be a system in place for easy retrieval of this information.

The contracted laboratories are responsible for keeping complete, valid documentation on all analysis procedures performed for the LBP program. However, the laboratories should simply report the results and should not be directly involved in the determination of whether LBP abatement should occur or when clearance can be given as a result of the analyses. Sufficient information should be provided to the PHA's or their contractors to allow for them to interpret the data and to determine whether lead abatement should take place.

A-5.2.4.1 Types of Data to be Recorded

The various types of data which must be recorded by the laboratory during the analysis method can be categorized into several classifications. These classifications are listed below, along with general data items which would be included in each classification. Each classification could be regarded as a separate data form which would be created for the laboratories to follow in the documentation phase. The list of information in each classification is not exhaustive and is meant to be a guideline on the types of information for which the laboratory is responsible for collecting and recording.

Cover Page Information. General information on the laboratory, identification of the analysis methods, and the conditions under which the analysis method was performed are presented on a cover page. This information identifies the entire packet of method results, which are summarized in subsequent data categories. This information may be duplicated as heading information on
other data forms. The Cover Page information includes the following:
- Laboratory identification
- Date and time of recording
- Type of analysis method used (ICP, GFAA, FAA, etc.)
- Type of instrument used
- Type of digestion procedures used
- Method verification signatures
- General comments on this run.

Sample Information. A list of all samples analyzed in the given run (both field samples and QC samples), in the order in which they were analyzed, is included in this category. Information on the particular sample run is also included. The chronological ordering of the samples is important in this form so that the QC samples can be matched with the field samples.

- Sample identification
- Sample type (paint, dust, air, etc.)
- Sample weight (in grams)
- Medium/matrix information
- Dilutions (if any)
- Date received from laboratory
- Date and time analyzed
- Operator information

Sensitivity Results. The calculation of sensitivity in runs using the Atomic Absorption analysis method can be summarized:
- Date and time of analysis
- Concentration of lead standard
- Absorbance reading from analysis of the standard
- Sensitivity calculation.

Results of Initial Precision and Accuracy. Results of the initial run of 4 spiked aliquots of ambient water:
- Date and time of analysis
- Sample identification for the 4 aliquots
- Spiked concentrations
- Percent recoveries
- Mean, standard deviation, and relative standard deviation of the percent recoveries among the 4 aliquots
- Flag for problem detected by this analysis
- Corrective actions, if any.

Results of Calibration. Results of each determination of the calibration curve are summarized on this form:
- Date and time of calibration
- Identification of the standards
- Concentration of the standards
- Detection limits
- Method endpoints (absorption) on analysis of the standards
- Slope and intercept terms of the fitted calibration curve
- Mean-square error and correlation coefficient of the fitted calibration curve.

Results of Analysis on Blanks. Results of the analysis of the blank samples listed on the Sample Information form are summarized:
- Date and time of analysis
- Sample identification
- Type of blank (ICV, CCV, Preparation blank, Field blank)
- Detection limits
- Method endpoint (absorption) on analysis of the blanks
- Estimated concentration based on the calibration curve
- Flag for problem detected by this analysis
- Corrective actions, if any.

Results of Calibration Verification. Results of the verification procedure on the calibration curve through verification standard samples are summarized:
- Date and time of analysis
- Identification of the calibration curve
- Sample identification of the calibration check samples
- Sample type (ICV, CCV)
- True concentration level of lead in the ICV and CCV
- Method endpoint (absorption) on analysis of the check samples
- Estimated concentration based on the calibration curve
- Percent difference between the true and estimated concentration
- Flag for problem detected by this analysis
- Corrective actions, if any.

Results of Tests for Accuracy. Results of the analysis on spike samples, laboratory control samples, and linear range analyses are summarized as follows:
- Date and time of analysis
- Sample identification
- Sample type (regular spike, ICS, LCS, LRA)
- Spiking concentration
- Method endpoint (absorption) on analysis of the sample
- Estimated concentration of the sample
- Percent recovery
- Flag for problems detected by this analysis
- Corrective actions, if any.

Results of Tests for Precision. Results of the analysis on split and duplicate samples are summarized as follows:
- Date and time of analysis
- Sample identification
- Type of sample (duplicate spike samples, split samples, etc.)
- Number of duplicate
- Spiking concentration (if any)
- Method endpoint (absorption) on analysis of the sample
- Estimated concentration of the sample
- Relative percent difference for duplicate spike samples
- Relative standard deviation for split and duplicate samples
- Flag for problem detected by this analysis
- Corrective actions, if any.

In addition, laboratories should document the data results from methods used to prevent and adjust for interferences and biases, such as serial dilution methods and the Method of Standard Additions. Sources of standards used in the analysis should also be completely documented.

Laboratories are also responsible for recording other types of information required by the program, such as the EP Toxicity Test (see Chapter 11).

A-5.2.4.2 Data Reduction and Reporting

The data resulting from analytical and QA/QC sample analysis must be reduced according to the protocols described in the laboratory SOP. The computer programs used for data reduction need to be validated before they are used and the programs verified on a regular basis through spot checks of computer calculations. All data must be reviewed by a second analyst or supervisor, according to the laboratory SOP, to ensure that calculations are correct and to detect any transcription errors. Any errors detected would then be referred to the analyst for corrective action. The data package would be assessed to determine whether all critical analytical requirements had been met (e.g., holding times, calibration criteria, etc.), and the data reported in accordance with program requirements.

Data conversion is necessary because, although the results of the method analysis and calibrations may yield an estimated concentration of lead in the field samples, the results must be converted to allow for comparisons with the necessary regulatory limits to determine whether abatement is necessary. This implies that the results must be converted to the amount of lead in the samples as a percentage of total sample weight. The conversion process makes it necessary to record information on the sample preparation process and any dilutions which were performed on the sample. The conversion process depends on the type of sample collected (paint, dust, air), as the regulatory limits to consider also are expressed according to type of sample collected. See sections on data reporting for these sample types (sections A-5.3.3, A-5.4.3, and A-5.5.3) on how the conversion process is performed.

Data censoring is defined as the inability to observe an exact value for a data point, instead reporting a lower bound, upper bound, or interval for the exact value. The reporting of lower or upper bounds on the percentage of lead by weight in field samples, rather than the observed estimates, is possible in situations where the upper limit of the calibration range refers to a concentration of lead which requires abatement, and the estimated sample concentration falls above this upper limit. Such a situation can occur if the regulatory limit of 0.5% lead by weight is represented within the range of the calibration curve. If the lead concentration for a sample falls above the linear range of the calibration curve (not allowing for a good estimate of the concentration), then simply reporting that the estimated concentration is above that which requires abatement is allowable in this context. Similarly, reporting that the estimated concentration is below that of the level which does not require abatement is also allowable. The laboratory should continue to report actual results from the analysis methods; however, the data conversion need only reduce the data to a level in which a clear, defensible decision can be made on lead abatement.

Data archiving is necessary to ensure that the documented information is securely stored in a facility that adequately addresses/minimizes its deterioration for a 10-year period. If a testing facility or an archive contract facility goes out of business before the time period specified, all documentation must be stored in another facility as specified.
Paint Film

The inspector should attempt removal of paint in such a manner as to minimize the amount of substrate which adheres to the paint film. Some materials useful in collecting samples are:

- A heat gun.
- Two putty knives, one wide and one narrow.
- Clean, see-through plastic baggies with a zip-lock mechanism. Two sizes, sandwich and narrow.
- A permanent marker, not water based.
- Sharp, durable, cutting knife with a fine edge or thin scalpel blade.
- A two-handed paint scraper may be necessary to scrape down to the bare substrate when removing for XRF SEL analysis.
- Small boxes for mailing.

The samples taken for laboratory analysis should be about 2 square inches; the larger, the better. Samples are removed for determining an XRF SEL should be larger than the minimum sensitive area of the XRF being used. Typically, about 3" by 3". These samples, although not usually submitted for lab analysis, should be retained by the PHA until all abatement is complete. Samples should contain all layers of paint down to the substrate.

Preparing the sample container:

- On a strip of tape or label, identify the exact location where the sample was taken. Labeling should be held under the sampled surface to catch debris which falls. Inspectors should practice these methods to become proficient.
- Affix the label to the outside of the baggie.

There are three general methods that are suggested, all of which are fairly messy. A tray or other container should be held under the sampled surface to catch debris which falls. Inspectors should practice these methods to become proficient.

The first method is the cutting or punching method:

1. Apply clear, pressure sensitive adhesive tape over an area slightly larger than the sample to be collected.
2. Cut through the paint layers with a punch or template/ sharp knife combination of known area.
3. Remove the paint and a thin layer of substrate beneath it using a sharp chisel having the same dimensions as a side of the square.
4. Use the brush or mini-vacuum to clean the area and dispose of any residual material in a plastic disposal bag.

A basic formula to follow for conversion of paint film to percent by weight is the following:

\[
\text{Paint film weight percent} = \frac{\text{Paint film weight}}{\text{Sample weight}} \times 100
\]

This section describes key issues relating to standard laboratory equipment, data analysis, and data reporting procedures. Specific guidelines are provided, particularly in terms of collection procedures.

A-5.3.1 Standard Practices for Collecting Paint Samples

The inspector should attempt removal of paint in such a manner as to minimize the amount of substrate which adheres to the paint film. Some materials useful in collecting samples are:

- A heat gun.
- Two putty knives, one wide and one narrow.
- Clean, see-through plastic baggies with a zip-lock mechanism. Two sizes, sandwich and narrow.
- A permanent marker, not water based.
- Sharp, durable, cutting knife with a fine edge or thin scalpel blade.
- A two-handed paint scraper may be necessary to scrape down to the bare substrate when removing for XRF SEL analysis.
- Small boxes for mailing.

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The first method is the cutting or punching method:

1. Apply clear, pressure sensitive adhesive tape over an area slightly larger than the sample to be collected.
2. Cut through the paint layers with a punch or template/ sharp knife combination of known area.
3. Remove the paint and a thin layer of substrate beneath it using a sharp chisel having the same dimensions as a side of the square.
4. Use the brush or mini-vacuum to clean the area and dispose of any residual material in a plastic disposal bag.

Samples collected in this manner are for analysis results to be reported in area concentration.

The second method is a cutting method:

1. Using a sharp knife or scalpel, score the area of paint in question to an appropriate size, attempt to lift the paint off by sliding the thin blade along the score and underneath the paint, and remove a section down to the wood or plaster, making sure all layers of paint are intact. Care should be taken to avoid including wood, paper, or plaster in the sample if the analysis results are to be reported as weight percent.
2. Use the brush or mini-vacuum to clean the area and dispose of any residual material in a plastic disposal bag.

The third method utilizes the fact that paint and substrate materials heat and cool at different rates. It does not work well on plaster, works moderately well on concrete, works very well on steel and wood. With practice some inspectors can use the removal of an entire paint film, down to, but not including the substrate. Materials needed are a heat gun, 2 sharpened putty knives (one wide, one narrow), and a paint scraper.

1. Direct heat air about 4 to 6" from the surface while pressing the edge of the knife into the paint. Don't overheat or cause smoking, heat gently to soften the paint.
2. Heat for a few seconds, and cool for a few seconds while gently pressing the knife edge into the paint.
3. Use the knife to lift off the paint, scrape the surface with the scraper to remove residual paint, if any.
4. Use the brush or mini-vacuum to clean the area and dispose of any residual material in a plastic disposal bag.

After using either method to check to ensure that the sample are properly labeled for shipment to the laboratory, or for storage until after abatement is complete. The samples may be needed for testing to determine if they will be considered a hazardous waste, depending upon the abatement method used. Finally, having obtained a sample:

1. Place the sample into the corresponding pre-labeled bag and secure with the zip-lock mechanism.
2. Using a separate baggy, collect the next sample following one of the above procedures.

Be certain that the samples are not mixed with dirt or soil. Do not put more than one sample in a single bag. You may put several small bags, each properly labeled, into one large bag labeled as to the location where the samples were collected for storage purposes. If samples are mailed use boxes, not envelopes for shipping samples and enclose a cover letter to ensure that the ASTM 3585-65a preparation procedure is followed. It is best to enclose air from the head space so that the samples are traceable in the event they are lost in mailing.

A-5.3.2 Laboratory Analysis for Lead in Paint Film

The collection of blank paint film samples in the field consists mainly of sampling non-LBP film in the general vicinity of the sampling. It is unclear how field blanks for

Field blanks and preparation blanks are collected in the same manner. To collect a blank sample, the inspector should obtain a paint chip of non-LBP from the unit and return it to the lab for analysis. The sample representing the field blank should be analyzed directly with no further treatment.

When preparing the preparation blank should be analyzed after it has passed through the sample stream, including storage and sample preparation. The field blank represents contamination added in the field, during storage and sample preparation, while the preparation blank represents contamination added in the field and during storage and sample preparation.

Reagent blanks are required for all methods using reagents; one blank is required for each reagent batch. All reagents used in the laboratory must be analyzed directly with no further treatment. The preparation blank can be analyzed after it has passed through the sample stream.

To measure the degree of accuracy in the laboratory procedure, spiked samples will be prepared by mixing dried lead dust of known concentration with the sample before sample preparation. When preparing a spiked sample, the spiking sample of known lead concentration which is added to the field sample must be in dried dust form, as the spiked sample must be in the same form as the field sample. Following the general guidelines of the QC procedures, spiked samples are analyzed at a frequency of one per 20 samples.

As with spiked samples, duplicate samples are processed at a frequency of one per 20 samples. Duplicate samples are collected by taking paint film samples adjacent to each other within an area of nearly constant LBP levels. These duplicate samples will be stored under the same conditions for laboratory analysis. Split samples are obtained by splitting the single paint sample. Additional split and duplicate samples will be sent to a designated QA/QC laboratory for analysis.

A-5.3.3 Data Reporting for Lead in Paint Film

Results of lead analysis in paint film must be expressed in terms of either percent of sample weight or relative to sample area in order for comparisons with the regulatory guidelines. The regulatory guidelines are 0.5% lead by weight or 1 mg/cm² lead content. Determinations of whether to abate the LBP in a given housing unit can only be performed after this data conversion process. This section describes the data conversion procedure necessary to express the laboratory results into percent lead by weight or by area of the sample. General data reporting procedures are discussed in section A-5.2.4.

A basic formula to follow for conversion of lead concentrations to percentage of lead by weight is the following:

\[
\text{Lead concentration} = \frac{\text{Lead content}}{\text{Sample weight}} \times 100
\]
A-5.4 Laboratory Testing for Lead in Dust

Materials needed

1. Wipes consisting of commercial wipes moistened with a non-alcohol wetting agent.
2. Plastic template (1 foot by 1 foot).
4. Marking pen.
5. 50 mL polypropylene tube.
6. Rack to carry tubes.
7. Sample sheet (see Attached Form).
8. Disposable gloves.

Sample size
A 1 square foot plastic template should be used when samples are taken from the floor. When window sills and wells are sampled, the length and width of the area is measured in inches. One square foot is sampled according to the formula:

\[
\text{Length} \times \text{Width} = \text{SquareFoot}
\]

Sample collection
Identify and document all areas to be sampled, beginning in one room. Documentation should include:

- Location of sample. (See Table 10.1 of this manual for recommended locations of samples. Samples from the floor should be taken near the edge of the room, not the center of the room.)
- Surface type (floor, sill, well).
- Surface material (plaster, wood, metal).
- Surface area measurements.
- Abatement status (abated, not abated).
- Abatement method if known.

Put on disposable gloves (to prevent sample contamination by lead on the hands). Throw the first wipe away, since it is likely to be contaminated. Place the second wipe in a tube to submit to the laboratory as a blank. Sample areas from low to high lead, to the extent that this is known. The procedure is:

1. Place a wipe flat on the surface to be sampled. Rub the wipe in an "S" pattern once over the entire measured area. (Do not scrub.) Fold the wipe in half, folding the dust into the wipe, and rub once over the surface again, at a 90 degree angle to the first "S". Fold the wipe and place it in a tube.
2. Mark the tube with the sample number, location, and surface (sill, well, floor).
3. Change gloves after each sample is taken.
4. Use the same sampling method for every sample. For example, use the same amount of pressure when wiping the surface at each sample location. Changing the method may change the results.
5. Submit the samples to the laboratory for analysis.

A-5.4.3 Data Reporting for Lead in Dust

Results of lead analysis of lead in dust must be expressed in terms of total mass of lead per unit surface area. While federal standards for clearance criteria are being developed for lead dust levels, interim criteria to be followed are the following:

- Floors: 200 µg sq ft.
- Window Sills: 500 µg sq ft.
- Window Wells: 800 µg sq ft.

Determination of what lead dust levels are at acceptable levels in the clearance process can only be performed after data conversion process. This section describes the data conversion procedure necessary to express the laboratory results into µg/sq ft. General data reporting procedures are discussed in section A-5.2.4.

The conversion of lead concentrations to weight of lead per square centimeter of paint is given as follows:

\[
P = \left( \frac{C(S) \times V(S) - C(B) \times V(B)}{A} \right) \times 1000
\]

where

- \( P \) = percentage of lead by sample weight,
- \( C(S) \) = estimated lead concentration of the sample (µg/mL),
- \( V(S) \) = volume of sample solution (mL),
- \( C(B) \) = estimated lead concentration of the blank associated with the sample (µg/mL),
- \( V(B) \) = volume of blank solution (mL),
- \( A \) = area of the sample (cm²).

(Note that the reported concentrations may already be corrected for the blank, in which case the second term in the numerator would be eliminated. The value of \( P \) would be compared with the regulatory limit of 0.5% to determine whether abatement is necessary.

Laboratories should report both data conversion P and Q, along with their necessary. The conversion of lead concentrations to mg/cm² to determine whether abatement is necessary. The multiplier of 1,000 is used to convert results from pg to mg. The value of \( Q \) would be compared with the regulatory limit of 0.5% to determine whether abatement is necessary. The value of \( P \) would be compared with the regulatory limit of 0.5% to determine whether abatement is necessary. The value of \( P \) would be compared with the regulatory limit of 0.5% to determine whether abatement is necessary.

A 1 square foot plastic template should be used when samples are taken from the floor. When window sills and wells are sampled, the length and width of the area is measured in inches. One square foot is sampled according to the formula:

\[
\text{Length} \times \text{Width} = \text{SquareFoot}
\]

Sample collection
Identify and document all areas to be sampled, beginning in one room. Documentation should include:

- Location of sample. (See Table 10.1 of this manual for recommended locations of samples. Samples from the floor should be taken near the edge of the room, not the center of the room.)
- Surface type (floor, sill, well).
- Surface material (plaster, wood, metal).
- Surface area measurements.
- Abatement status (abated, not abated).
- Abatement method if known.

Put on disposable gloves (to prevent sample contamination by lead on the hands). Throw the first wipe away, since it is likely to be contaminated. Place the second wipe in a tube to submit to the laboratory as a blank. Sample areas from low to high lead, to the extent that this is known. The procedure is:

1. Place a wipe flat on the surface to be sampled. Rub the wipe in an "S" pattern once over the entire measured area. (Do not scrub.) Fold the wipe in half, folding the dust into the wipe, and rub once over the surface again, at a 90 degree angle to the first "S". Fold the wipe and place it in a tube.
2. Mark the tube with the sample number, location, and surface (sill, well, floor).
3. Change gloves after each sample is taken.
4. Use the same sampling method for every sample. For example, use the same amount of pressure when wiping the surface at each sample location. Changing the method may change the results.
5. Submit the samples to the laboratory for analysis.

A-5.4.3 Data Reporting for Lead in Dust

Results of lead analysis of lead in dust must be expressed in terms of total mass of lead per unit surface area. While federal standards for clearance criteria are being developed for lead dust levels, interim criteria to be followed are the following:

- Floors: 200 µg sq ft.
- Window Sills: 500 µg sq ft.
- Window Wells: 800 µg sq ft.

Determination of what lead dust levels are at acceptable levels in the clearance process can only be performed after data conversion process. This section describes the data conversion procedure necessary to express the laboratory results into µg/sq ft. General data reporting procedures are discussed in section A-5.2.4.

The conversion of lead concentrations to weight of lead per square centimeter of paint is given as follows:
guidelines (30 jig/m³ TWA). Over an 8-hour period, filters may have to be changed several times to prevent overloading, depending upon the air dust level encountered. Other applicable NIOSH Methods may also be used.

A-5.5.2 Laboratory Analysis for Lead in Air Filter Samples

The following laboratory techniques and method should be used for air sample collection and analysis.

<table>
<thead>
<tr>
<th>Lab technique</th>
<th>NIOSH method number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flame AA</td>
<td>7092</td>
</tr>
<tr>
<td>Furnace AAS</td>
<td>214</td>
</tr>
<tr>
<td>ICP-AES</td>
<td>7300</td>
</tr>
</tbody>
</table>

For quality control purposes, a blank air filter sample should be submitted with each group of samples. The collection of blank air samples in the field consists mainly of exposing a filter to the conditions of the field while field sampling is taking place. This filter is handled in the same way as the sample filters except no air is drawn through it. Such a blank filter should be submitted with each group of samples.

By blind insertion into the sample stream, the inspector will provide the following blanks at the indicated frequency:

Field blank—1/field sampling day
Field preparation blank—1/field sampling day

Field blanks and preparation blanks are collected in the same manner. To collect a blank “air” sample, the inspector should open the sample container during the collection of one of the “real” samples, then close it and return it to the lab for analysis. The field blank should be analyzed directly with no further treatment. The preparation blank should be analyzed after it has passed through the sample stream, including storage and sample preparation. The field blank represents contamination added in the field, during storage and sample preparation, while the preparation blank represents contamination added in the field and during storage and sample preparation.

Reagent blanks are required for all methods using reagents; one blank is required for 3-reagent batches. The field blank can be analyzed directly without further treatment. The sample blank can be analyzed after it has passed through the sample stream.

Because the sample obtained from air sampling is in the same dust form as that obtained from dust wipe sampling, the creation and handling of spiked air samples is the same as that for spiked dust wipe samples. To measure the degree of accuracy in the laboratory procedure, spiked filter samples will be prepared by mixing dried lead dust of known concentration with the sample before sample preparation. When preparing a spiked sample, the spiking sample of known lead concentration which is added to the field sample must be in dried dust form, as the spiking sample must be in the same form as the field sample. Following the general guidelines of the QC procedures, spiked samples are analyzed at a frequency of one per 20 samples.

As with spiked samples, duplicate air samples are processed at a frequency of one per 20 samples. Duplicate samples are collected by exposing two air filters from the same lot, then collecting a sample in each filter with one sample taken immediately after the other. The two filters are stored under the same conditions for laboratory analysis. Split samples are obtained by splitting the sample gathered from one filter. Additional split and duplicate samples will be sent to a designated QA/QC laboratory for analysis.

A-5.5.3 Data Reporting for Lead in Air

Data reporting for lead in air samples follows the general guidelines of laboratory data reporting discussed in section A-5.2.4. Additional information pertaining only to air sampling is discussed in this section. Laboratory results for air samples will be reported in terms of the amount of lead in the sample collected by the air filter. This result should be converted into a result which gives the concentration of lead in a given volume of air rather than in the air filter sample.

The following general formula can be used to obtain results in terms of air volume.

\[ C = \frac{[C(S) \times V(S)] - [C(B) \times V(B)]}{V} \]

where
- \( C(S) \) = the concentration of lead in the collected sample (µg/mL)
- \( C(B) \) = corrections to the concentration (i.e., concentration of lead in blanks) (µg/mL)
- \( V(S) \) = the solution volume of the sample (mL)
- \( V(B) \) = the solution volume of the blank sample (mL)
- \( V \) = the volume of air sampled (L)
- \( C \) = the concentration of lead in the air volume sampled (µg/L)

Laboratories should report this concentration, along with the components, as part of the data package for air samples. Information specific to obtaining the air samples should be listed on a separate data form for air samples, which would include the following:
- Location where sample was taken.
- Length of time in use.
- Abatement/Clearance status.
- Abatement method if known.

C= 

A-5.6 Laboratory Testing for Lead in Soil

Soil lead analysis may be indicated in some cases. Two methods measuring total lead have been reported by the EPA in conjunction with the Superfund Soil Lead Abatement Demonstration Project: Hot nitric acid extraction and a cold nitric acid digestion. The EPA has determined that the results of these methods are comparable to one another and to those achieved when using a spectrum analyzer XRF (“L” X-ray analysis). If the sample contains less than 5,000 parts per million lead. Above 5,000 ppm, both the cold nitric acid digestion and the

Separate the sample in several groups and collect a blank air sample.
XRF method were found to under estimate the lead concentrations. EPA protocols for soil sampling and analysis should be followed if it is necessary to perform soil lead analysis.

BILLING CODE 4210-33-M
Appendix 5: Documentation Form for Wipe Sampling

SAMPLE SHEET - ANALYSIS FOR LEAD IN DUST

<table>
<thead>
<tr>
<th>SAMPLE NO.</th>
<th>LOCATION</th>
<th>SURFACE CODE</th>
<th>MATERIAL CODE</th>
<th>METHOD CODE</th>
<th>AREA IN INCHES (L X W)</th>
<th>LABORATORY RESULTS ug Pb/ft²</th>
<th>NOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Date Received: ___________________  Reported: ___________________  Analyst: ___________________

Remarks: ____________________________________________________________

Detection Limit ___ ug/ft²  Digestion Method _________________________

Threshold Limit:  
- Floor: 200 ug/ft²  
- Window sill: 500 ug/ft²  
- Window well: 800 ug/ft²

200 ug/ft² should be achievable on components that have been replaced.

BILLING CODE 4210-33-C
6.0 The Resource Conservation and Recovery Act (RCRA)

The Resource Conservation and Recovery Act of 1976. What we commonly refer to as hazardous wastes is a sub-category of solid wastes. EPA has established regulations which govern the management of hazardous wastes, primarily nonhazardous wastes.

6.1 Defining Solid and Hazardous Wastes

Solid wastes include such diverse wastes as household trash, sewage sludge, and discarded commercial chemical products. They may appear in a variety of forms:

- In barrels or drums.
- In pits, ponds, or lagoons.
- In sludges.
- As part of contaminated soil.
- In bottles or other fragile or nondurable containers.
- In underground or underground storage tanks.
- As part of building materials, (e.g., asbestos).

In general, a waste is considered hazardous if it can endanger human health or damage the environment. Congress defined the term "hazardous waste" in Section 261(4) of RCRA as any solid waste which is such a hazardous waste. There are several exemptions to this definition.

6.2 Listing of Hazardous Wastes

The U.S. Environmental Protection Agency (EPA) has determined that certain wastes are hazardous. These wastes are incorporated into lists published by EPA. Wastes on these lists must always be handled as hazardous wastes regardless of their concentrations. The lists expand as new research and testing are performed; therefore, it is important to consult the lists periodically.

Any mixture containing one or more listed hazardous wastes, or a mixture of solid waste and listed hazardous waste, is also considered a hazardous waste. This applies regardless of the percentage of the mixture that is listed as hazardous waste. There are several exemptions to this mixture rule.

If the solid waste is not included in the EPA list of hazardous wastes, or is not a mixture that contains one of these wastes, it may still be a hazardous waste if it exhibits the characteristic of ignitability, corrosivity, reactivity, or toxicity. EPA's definition of these characteristics is contained in 40 CFR, Sections 261.10 and 261.17. The standard measures specified by EPA to test for these properties are as follows:

- The Resource Conservation and Recovery Act (RCRA) was passed in 1976 to address the problems posed by the improper disposal of municipal and industrial wastes. RCRA was amended in 1989 and again in 1994. The goals of RCRA are to protect human health and the environment; reduce waste and conserve energy and natural resources; and reduce or eliminate the generation of hazardous waste as expeditiously as possible. Two programs developed under RCRA affect disposal of wastes generated during hazardous waste management plans: the Subtitle D program and the Subtitle C program.

- Subtitle D governs the management of solid wastes, primarily nonhazardous wastes. Subtitle C controls hazardous waste from the time it is generated until its ultimate disposal.

6.2.1 Subtitle D

Subtitle D ensures the proper management of solid wastes. EPA has established standards (commonly called Subtitle D Criteria) covering the operation of municipal solid waste landfills. These standards are designed to eliminate the hazards associated with:

- Flooding of solid waste landfills.
- Reducing the habitat of endangered species.
- Contamination of surface water.
- Contamination of ground water.
- Contamination of food supplies.
- Air pollution.
- Public safety risks at landfills.

Facilities that don't comply with these criteria are classified as "open dumps" and must either close or upgrade their operations.

Some municipal solid waste landfills receive small quantities of hazardous waste. EPA has established small generators, generating 1000 kilograms or less per month, and small generators, generating less than 100 kilograms per month, are called small generators, generating less than 1000 kilograms per month, and small generators, generating less than 100 kilograms per month. These generators are subject to EPA hazardous waste regulations, with the exception of small generators.
more of hazardous waste per month, are subject to all EPA hazardous waste regulations, including reporting and recordkeeping requirements. EPA also has a list of very toxic ("acute hazardous") wastes, which, if generated in quantities greater than 1 kilogram per month, must be managed under the full set of requirements.

Although generators may dispose of their waste either onsite or offsite, lead-based paint abatement contractors will undoubtedly transport their wastes offsite. In order to transport their wastes, contractors may require an EPA identification number for each site at which hazardous waste is generated and, if necessary, a state identification number. Transporters pick up waste from generators and ship it to facilities that treat, store, or dispose of hazardous wastes.

Treatment facilities use various processes to destroy hazardous waste or render it harmless. Storage facilities temporarily hold hazardous waste until it is treated or disposed of. Disposal facilities are the permanent location for hazardous wastes. All three types of facilities must have an EPA identification number. Disposal facilities must have authorization (either a permit or "interim status") in order to operate. Small generators may store up to 132,000 pounds (6,000 kilograms) of hazardous waste onsite for 180 days without a permit, providing an employee is onsite or on-call to handle an emergency. If the waste is shipped over 200 miles to a TSDF facility, the same amount of waste can accumulate onsite for 270 days without a permit. For large generators, the time period is reduced to 90 days.

States are encouraged to run their own hazardous waste programs. For a state to have primary jurisdiction over its hazardous waste program, it must receive approval from EPA by demonstrating that its program meets the requirements for authorization.

Source for Table A 6.1: Code of Federal Regulations, title 40, part 261, subpart C.

Note: The EPA Administrator signed a notice of final rulemaking on March 5, 1990, which revises the EP toxicity characteristic. As of this writing, the notice is expected to be published in the Federal Register on March 29, 1990. The effective date of the regulation is 6 months after the date of publication, but 12 months for small quantity generators (those who generate more than 100 but less than 100 kilograms per month of hazardous waste, and no more than 1 kilogram per month of acute hazardous waste). The new regulation expands the list of toxic constituents, and replaces the EP test with the more stringent Toxicity Characteristic Leaching Procedure (TCLP). In the interim, results of either the EP or the TCLP are acceptable.

### Table A-6.1—Characteristics of Hazardous Wastes

<table>
<thead>
<tr>
<th>Ignitability</th>
<th>EP considers wastes with the following characteristics of ignitability to be hazardous:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquids with a flash point (the temperature at which the vapor easily ignites in air) less than 140 °F. (The only exceptions are aqueous alcohol solutions containing 24 percent by volume or less of alcohol.)</td>
<td></td>
</tr>
<tr>
<td>Materials that are not liquids and are capable, under standard temperature and pressure, or causing a fire by means of friction, absorption of the moisture, spontaneous chemical changes.</td>
<td>Materials that burn so vigorously and persistently when ignited that they create a hazard.</td>
</tr>
<tr>
<td>Ignitable compressed gases.</td>
<td>Ignitables.</td>
</tr>
<tr>
<td>Oxidizers.</td>
<td>Corrosivity.</td>
</tr>
</tbody>
</table>

Corrosivity: EPA considers wastes with the following characteristics of corrosivity to be hazardous:

- Aqueous wastes with a pH less than or equal to 2 or greater than or equal to 12.5.
- Liquid wastes that corrode steel at a rate equal to or greater than 0.25 inches per year at a test temperature of 130 °F.

Reactivity: EPA considers wastes with the following characteristics of reactivity to be hazardous:

- Materials that are normally unstable and readily undergo violent change without detonating.
- Materials that react violently with water.
- Materials that form potentially explosive mixtures with water.
- Materials that, when mixed with water, will generate toxic gases, vapors, or fumes in quantities sufficient to endanger human health or the environment.
- Cyanide- or sulfide-bearing materials that, when exposed to a pH between 2 and 12.5, can generate sufficient quantities of toxic gases, vapors, or fumes to present a danger.
- Materials capable of detonation or explosive reaction if subject to a strong initiating source or if heated under confinement.
- Materials that are readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure.

### Table A-6.2 Metal Contaminants Analyzed by EP Toxicity Test

<table>
<thead>
<tr>
<th>Hazardous waste # (mg/l)</th>
<th>Contaminant</th>
<th>Concentration</th>
</tr>
</thead>
<tbody>
<tr>
<td>D004</td>
<td>Arsenic</td>
<td>5.0</td>
</tr>
<tr>
<td>D005</td>
<td>Barium</td>
<td>100.0</td>
</tr>
<tr>
<td>D006</td>
<td>Cadmium</td>
<td>1.0</td>
</tr>
<tr>
<td>D007</td>
<td>Chromium</td>
<td>5.0</td>
</tr>
<tr>
<td>D008</td>
<td>Lead</td>
<td>5.0</td>
</tr>
<tr>
<td>D009</td>
<td>Mercury</td>
<td>0.2</td>
</tr>
<tr>
<td>D010</td>
<td>Selenium</td>
<td>1.0</td>
</tr>
<tr>
<td>D011</td>
<td>Silver</td>
<td>5.0</td>
</tr>
</tbody>
</table>

### Table A-6.3 Recordkeeping Requirements for Hazardous Waste

<table>
<thead>
<tr>
<th>Who?</th>
<th>What Retained</th>
<th>How Long</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generator</td>
<td>Copy of each manifest</td>
<td>3 years</td>
</tr>
<tr>
<td></td>
<td>test results</td>
<td>3 years</td>
</tr>
<tr>
<td></td>
<td>Waste analysis report</td>
<td>3 years</td>
</tr>
<tr>
<td></td>
<td>Biennial report</td>
<td>Active life</td>
</tr>
<tr>
<td></td>
<td>Exception (manifest) report</td>
<td>Until closure/3 years after employee last worked at facility</td>
</tr>
<tr>
<td></td>
<td>Training records</td>
<td>Active life</td>
</tr>
<tr>
<td></td>
<td>EPA identification number</td>
<td>Active life</td>
</tr>
<tr>
<td></td>
<td>Contingency plan</td>
<td>Active life</td>
</tr>
<tr>
<td></td>
<td>Transporter Identification number</td>
<td>Active life</td>
</tr>
<tr>
<td></td>
<td>Copy of each manifest or shipping document (ship/rail)</td>
<td>3 years</td>
</tr>
<tr>
<td></td>
<td>Notices to foreign generator</td>
<td>Active life</td>
</tr>
<tr>
<td></td>
<td>Treatment, Storage, or Disposal Facility</td>
<td>Active life</td>
</tr>
<tr>
<td></td>
<td>Waste Analysis Plan &amp; Analysis</td>
<td>Active life</td>
</tr>
<tr>
<td></td>
<td>Site Inspection Program</td>
<td>Active life</td>
</tr>
<tr>
<td></td>
<td>Inspection log &amp; records</td>
<td>3 years</td>
</tr>
<tr>
<td></td>
<td>Personal training records</td>
<td>Until closure/3 years after employee last worked at facility</td>
</tr>
</tbody>
</table>
### TABLE A—6.3. RECORDKEEPING REQUIREMENTS FOR HAZARDOUS WASTE—Continued

<table>
<thead>
<tr>
<th>Who?</th>
<th>What retained</th>
<th>How long</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ignitable, reactive incompatible waste documentation...</td>
<td>Active life.</td>
<td></td>
</tr>
<tr>
<td>Agreements/nonagreements with local authority...</td>
<td>Active life.</td>
<td></td>
</tr>
<tr>
<td>Contingency plans and details of manifests/shipping papers...</td>
<td>3 years.</td>
<td></td>
</tr>
<tr>
<td>Operating record (all requirements, such as description, location, quantity, etc., of each waste)...</td>
<td>Active life.</td>
<td></td>
</tr>
<tr>
<td>Ground-water monitoring data...</td>
<td>Active life.</td>
<td></td>
</tr>
<tr>
<td>Closure plan cost estimates...</td>
<td>Annual update.</td>
<td></td>
</tr>
</tbody>
</table>

* All records should become part of the operating record.

### Appendix 7—Regional OSHA Offices

**Region 1**
16-18 N Street, 1 Dock Square Building 4th Floor, Boston, Massachusetts 02109

**Region 2**
201 Varick Street, Room 670, New York, New York 10014

**Region 3**
Gateway Building, Suite 2100, 2535 Market Street, Philadelphia, Pennsylvania 19104

**Region 4**
1375 Peachtree Street, N.E., Suite 567, Atlanta, Georgia 30367

**Region 5**
32 Floor/Room 3244, 230 South Dearborn Street, Chicago, Illinois 60604

**Region 6**
525 Griffin Square, Room 602, Dallas, Texas 75202

**Region 7**
911 Walnut Street, Room 406, Kansas City, Missouri 64106

**Region 8**
Federal Building, Room 1576, 1961 Stout Street, Denver, Colorado 80294

**Region 9**
71 Stevenson Street, Room 415, San Francisco, California 94105

**Region 10**
Federal Office Building, 909 First Avenue/Room 6003, Seattle, Washington 98174

### Appendix 8—Laboratories for Paint and Dust Analysis and Blood Lead Analysis

Table A8.1 was compiled from current accreditation lists for inorganic analysis of the American Industrial Hygiene Association (AIHA) and the American Association of Laboratory Accreditation (AALA). In addition, contractors in the USEPA Contract Laboratory Program (CLP) who currently hold contracts in the area of inorganic analysis are included. This table is by no means exhaustive and is presented as a resource for PHAs and their contractors. The column heading labeled “P.E. Samples Required” refers to performance evaluation samples.

#### RECOMMENDED LABORATORIES FOR LEAD ANALYSIS

<table>
<thead>
<tr>
<th>Name</th>
<th>Accreditation</th>
<th>Method</th>
<th>Accredited for the following matrices</th>
<th>P.E. samples required</th>
<th>Recommended for lead analysis</th>
</tr>
</thead>
<tbody>
<tr>
<td>CALIFORNIA</td>
<td></td>
<td></td>
<td></td>
<td>Hazardous and solid waste</td>
<td>Air</td>
</tr>
<tr>
<td>Acculab Environmental Services, Environmental Laboratory, 3700 Lakemont Highway, Petaluma, CA 94952, (800) 277-0765, (800) 277-5889.</td>
<td>AIHA</td>
<td>A</td>
<td>X</td>
<td>YES</td>
<td>Paint, Dust</td>
</tr>
<tr>
<td>Associated Laboratories, Inc. (ALI), 306 North Batavia, Orange, CA 92868, (714) 771-6000.</td>
<td>CLP</td>
<td>B</td>
<td>X</td>
<td>YES</td>
<td>Paint</td>
</tr>
<tr>
<td>Brown and Caldwell Labs., Emeryville, CA, (415) 428-2900</td>
<td>AALA</td>
<td>C</td>
<td>X</td>
<td>NO</td>
<td>Dust</td>
</tr>
<tr>
<td>Central Coast Analytical, San Luis Obispo, CA, (805) 543-2553</td>
<td>AALA</td>
<td>C</td>
<td>X</td>
<td>NO</td>
<td>Dust</td>
</tr>
<tr>
<td>Clayton Environmental Consultants, 1252 Quary Lane, Pleasanton, CA 94566, Ronald H. Peters, CSH, Director, (415) 426-2900.</td>
<td>AIHA</td>
<td>A</td>
<td>X</td>
<td>YES</td>
<td>Paint</td>
</tr>
<tr>
<td>EMS Laboratories, 211 Pasadena Avenue, S. Pasadena, CA 91103, (818) 441-2393.</td>
<td>AIHA</td>
<td>A</td>
<td>X</td>
<td>YES</td>
<td>Paint</td>
</tr>
<tr>
<td>Enseco/Cal. Analytical (ENSECO), 544 Industrial Boulevard, West Sacramento, CA 95691, (916) 372-1393.</td>
<td>CLP</td>
<td>B</td>
<td>X</td>
<td>YES</td>
<td>Paint</td>
</tr>
<tr>
<td>Health Science Associates, Industrial Hygiene Laboratory, 10771 Noel Street, Los Alamitos, CA 90732-2574, (213) 430-1031.</td>
<td>AIHA</td>
<td>A</td>
<td>X</td>
<td>YES</td>
<td>Paint</td>
</tr>
<tr>
<td>Med-Tox Associates, Inc., 2440 Vincent Road, Pleasant Hill, CA 94523, (415) 900-0900.</td>
<td>AIHA</td>
<td>A</td>
<td>X</td>
<td>YES</td>
<td>Paint</td>
</tr>
<tr>
<td>Radiation Detection Company, 162 N. Wolfe Road, Sunnyvale, CA 94086, (408) 735-8700.</td>
<td>AIHA</td>
<td>A</td>
<td>X</td>
<td>YES</td>
<td>Paint</td>
</tr>
<tr>
<td>Roy F. Weston, Inc. (WESCA), 7720 Lorraine Avenue, Suite 105, Stockton, CA 95210, (209) 957-9405.</td>
<td>CLP</td>
<td>B</td>
<td>X</td>
<td>YES</td>
<td>Paint</td>
</tr>
<tr>
<td>SRI International, Physical Chemistry Laboratory, 333 Rosewood Avenue, Menlo Park, CA 94025, (415) 859-4800.</td>
<td>AIHA</td>
<td>A</td>
<td>X</td>
<td>YES</td>
<td>Paint</td>
</tr>
<tr>
<td>West Coast Analytical, Santa Fe Springs, CA, (213) 948-2225</td>
<td>AALA</td>
<td>C</td>
<td>X</td>
<td>NO</td>
<td>Paint</td>
</tr>
<tr>
<td>Thermo Analytical Corporation, TMA/NORCAL, 200 Wright Avenue, Richmond, CA 94804, (415) 235-2533.</td>
<td>AIHA</td>
<td>A</td>
<td>X</td>
<td>YES</td>
<td>Paint</td>
</tr>
<tr>
<td>Truesdail Laboratories, Inc., 14211 Franklin Avenue, Tustin, CA 92680, (714) 730-6239.</td>
<td>AIHA</td>
<td>A</td>
<td>X</td>
<td>YES</td>
<td>Paint</td>
</tr>
</tbody>
</table>

#### COLORADO

<table>
<thead>
<tr>
<th>Name</th>
<th>Accreditation</th>
<th>Method</th>
<th>Accredited for the following matrices</th>
<th>P.E. samples required</th>
<th>Recommended for lead analysis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adolph Coors Company, Coors Analytical Laboratory, 17750 W. 22nd Avenue, Golden, CO 80401, (303) 771-5458.</td>
<td>AIHA</td>
<td>A</td>
<td>X</td>
<td>YES</td>
<td>Paint</td>
</tr>
</tbody>
</table>


## Recommended Laboratories for Lead Analysis—Continued

<table>
<thead>
<tr>
<th>Name</th>
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<td>Analytica, Inc., 18000 W. Highway 72, Golden, CO 80403, (303) 420-4449.</td>
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<td>Enseco/Rocky Mtn. Analytical, 4955 Yarrow Street, Arvada, CO 80002, (303) 421-6611.</td>
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<td>Hager Laboratories, Inc., 11234 E. Caley Avenue, Englewood, CO 80111, (303) 790-2727.</td>
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<td>Aetna Life &amp; Casualty Company, Engineering Industrial Hygiene Laboratory, 151 Farmington Avenue, Hartford, CT 06155, (203) 693-3647.</td>
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<td>Environmental Health Laboratory, CIGNA Loss Control Services, Inc., 94 Murphy Road, Hartford, CT 06114, (203) 322-3814.</td>
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<td>Environmental Protection Systems (EPS), 8900-A Pensacola Boulevard, Pensacola, FL 32514, (904) 478-5717.</td>
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<td>American Foundrymen's Society, Lester B. Knight Environmental Services Laboratory, Gold and Wolf Roads, Des Plaines, IL 60016, (312) 824-0181.</td>
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<td>Cencor, (IEMA Insurance), Environmental Health Laboratory, 333 S. Wabash Avenue, 3W, Chicago, IL 60604, (312) 822-6093.</td>
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<td>National Loss Control Service Corporation, (Lumbermen's Mutual Casualty Company), Environmental Sciences Laboratory, Route 22 and Kemper Court, Long Grove, IL 60043, (312) 540-2488.</td>
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<td>Northern Labs and Eng., Inc. (NLE), 2400 Cumberland Drive, Valparaiso, IN 46383, (219) 464-2389.</td>
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<td>University of Iowa, University Hygienic Laboratory, Oakdale Campus, Iowa City, IA 52242, (319) 353-4500.</td>
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<td>Biospherics, Inc., Laboratory Division, 12051 Indian Creek Court, Beltsville, MD 20705, (301) 369-3900</td>
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<td>J&quot;C Environmental Consultants (JTC), 202 Pory Parkway, Gaithersburg, MD 20877, (301) 926-6802</td>
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<td>Martin Marletta Corporation, Center for Occupational Health Engineering, 1450 S. Rolling Road, Baltimore, MD 21227, (301) 247-0700</td>
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<td>Arthur D. Little, Inc., Acorn Park, Cambridge, MA 02140-2390, (617) 864-5770</td>
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<td>Energy &amp; Environ. Engineering (E38), 35 Medford Street, Somerville, MA 02143, (617) 686-5500</td>
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<td>Massachusetts Institute of Tech., Industrial Hygiene Laboratory, 77 Massachusetts Avenue Ave. Bldg. (202-204) Cambridge, MA 02139, (617) 255-2566</td>
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<td>NET Mid-Atlantic, Inc. (CENTRY), 100 Grove Road, Thorofare, NJ 08086, (609) 848-3939</td>
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<td>Northeast Analytical Corp., Evesham Corporate Center, 4 E. Stow Road, Marlton, NJ 08053, (609) 985-8000</td>
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<td>Princeton Testing Lab, Inc, Princeton, NJ, (609) 452-9050</td>
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<td>Advanced Environmental Systems, Monitoring &amp; Support Lab., 2186 Liberty Drive, Niagara Falls, NY 14303, (716) 285-8833</td>
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**RECOMMENDED LABORATORIES FOR LEAD ANALYSIS—Continued**

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<td>Chemtech Consulting Group (CHEM), 360 West 11th Street, New York, NY 10014, (212) 255-2100.</td>
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<td>Ecology and Environment, Inc., Analytical Services Center (ASC), 4205 Genesee Street, Buffalo, NY 14225, (716) 631-0300.</td>
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<td>Galson Technical Services, Industrial Hygiene Laboratory, 6001 Kirkville, Road, East Syracuse, NY 13057, (315) 432-0506.</td>
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<td>Nanco Laboratories, Inc. (NANCO), RD 8 Robinson Lane, Wappingers Falls, NY 12590, (914) 227-4100.</td>
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<td>Controls for Environmental Pollution, Santa Fe, New Mexico, (505) 982-9841.</td>
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<td>CompuChem Labs (COMPU), 3308 Chapel Hill/Nelson Highway, P.O. Box 12852, RTP, NC 27709, (919) 549-8283.</td>
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<td>Environmental Testing, Inc., 1700 University Commercial Place, Charlotte, NC 28213, (704) 507-8545.</td>
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<td>Radiant Corporation, Ind. Hyg. &amp; Env. Lab., P.O. Box 13000, Research Triangle Park, NC 27709, (919) 481-0212.</td>
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<td>Affiliated Environmental Services, 3608 Venice Road, Sandusky, OH 44870, (419) 627-1978.</td>
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<td>American Analytical Laboratories, Inc., 100 Lincoln Street, Akron, OH 44308, (216) 335-1300.</td>
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<td>Bower-Morner, Inc., Dayton, OH, (513) 253-6805.</td>
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<td>DataChem, Inc., 4388 Glenisla-Milford Road, Cincinnati, OH 45242, (513) 733-5336.</td>
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<td>De Yor Laboratories, Inc., 7655 Market Street, Suite 2500, Youngstown, OH 44412, (216) 758-5788.</td>
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<td>B.F. Goodrich Research Development Center, Corporate Environmental Services, 9921 Brecksville Road, Brecksville, OH 44141, (216) 447-5000.</td>
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<td>Goodyear Tire &amp; Rubber Company, Corporate Industrial Hygiene Laboratory D1081, 1144 E. Market Street, Akron, OH 44316-0001, (216) 796-3600.</td>
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<td>Hayden Environmental Group, 6015 Manning Road, Milamisburg, OH 45342, (513) 869-5000.</td>
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<td>Mead Corporation, Union &amp; Env. Protection Lab., 3475 Newmark Drive, Miamiamsburg, OH 45342, (513) 439-9434.</td>
<td>PEI Associates, 11499 Chester Road, Cincinnati, OH 45246, (513) 782-4734.</td>
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<td>University of Cincinnati, Kettering Laboratory, Analytical Section, 3223 Eden Avenue, Cincinnati, OH 45227-0056, (513) 588-1733, (513) 947-2939.</td>
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<td>Wadsworth Alert Labs, Inc., P.O. Box 31454, Cleveland, OH 44111, (216) 642-9151.</td>
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<td>Southwest Lab of Oklahoma, 1700 W. Albany, Suite C, Broken Arrow, OK 74012, (918) 291-2569.</td>
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<td>Trex-Rite Water Labs, Inc., Nowata, OK, (918) 273-2265.</td>
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<td>Exide, Inc., Industrial Hygiene Laboratory, 3613 Rising Sun Avenue, Philadelphia, PA 19111, (215) 342-1414.</td>
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<td>Freeport Brick Company, Free-Cell Laboratories, P.O. Box 557, Cotton Road, Meadville, PA 16335, (814) 724-6242.</td>
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<td>Gannett-Flemming Envir. Eng., Environmental Laboratory, 208 Senate Avenue, Camp Hill, PA 17011, (717) 763-7211, Ext. 334.</td>
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<td>Industrial Health Foundation, IHF Analytical Laboratory, 34 Penn Circle West, Pittsburgh, PA 15213, (412) 363-6500.</td>
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<td>IT Analytical Services (TPA), 5103 Old William Penn Highway, Export, PA 15632, (412) 731-8806.</td>
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<td>Keystone Environ. Resources, 8000 Technical Center Drive, Monroeville, PA 15146, (412) 825-9600.</td>
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<td>Lancaster Laboratories, Inc., 2245 New Holland Pike, Lancaster, PA 17601, (717) 296-2301.</td>
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### Recommended Laboratories for Lead Analysis—Continued

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<td>Lancaster Laboratories, Inc., Lancaster, PA, (717) 656-2301</td>
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<td>Lehigh Valley Analytics, 60 W. Broad Street, Bethlehem PA 18018 (215) 866-4424</td>
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<td>MDS Health Group, Inc., MDS Laboratories-Reading, 4416 Pottsville Pike, Reading, PA 19506, (215) 921-9161</td>
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<td>PPG Industries, Coatings &amp; Reins Division, Industrial Hygiene Laboratory, 200 Kapso Drive, Pittsburgh, PA 15238</td>
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<td>Pennrun Corporation, 150 William Pitt Way, Pittsburgh, PA 15238, (412) 826-5300</td>
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<td>Roy F. Weston, Inc. (WESTON), 208 Welsh Pool Road, Lionville, PA 19353, (215) 524-7360</td>
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<td>Spotts, Stevens &amp; McCoy, Inc., P.O. Box 6507, Wyomissing, PA 19601, (215) 376-6581</td>
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<td>RHODE ISLAND</td>
<td>Geemic Corporation (CEMIC), 100 Dean Knuss Drive, South Terry Industrial Park, Narragansett, RI 02882, (401) 782-8000</td>
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<td>SOUTH CAROLINA</td>
<td>Azimuth, Inc., 9229 University Boulevard, Charleston, SC 29418, (803) 593-8456.</td>
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<td>International Technology Corp., IT Analytical Service, 5815 Middlebrook Pike, Knoxville, TN 37921, (865) 598-6401</td>
<td>IT Corporation, Knoxville, TN, (615) 888-6401.</td>
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<td>TENNESSEE</td>
<td>Armstrong Forensic Laboratory, 280 Leech's Green Terrace, Arlington, TX 76012, (817) 275-2051.</td>
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<td>Betz Laboratories (BETZ), Grogans Mill Road, The Woodlands, TX 77380, (713) 367-6201</td>
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<td>Continental Technical Services, C-Tok Environmental Health Laboratory, 9742 Skillman, Dallas, TX 75243, (214) 543-2025</td>
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<td>Keystones Environ. Resources, 3911 Fondren, Suite 100, Houston, TX 77063-6212, (713) 260-6800.</td>
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<td>TEXAS</td>
<td>Keystones Environ. Resources, 3911 Fondren, Suite 100, Houston, TX 77063-6212, (713) 260-6800.</td>
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<td>NET Gulf Coast, Inc. (ALLIED), 1546 Valwood Parkway, Suite 118, Carrollton, TX 75006, (214) 406-8108.</td>
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<td>NUS Corporation, South Central Analytical Laboratory, 900 Garnie Avenue, Houston, TX 77038, (713) 468-1810.</td>
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<td>Raba-Kalner Consultants, Inc., Analytical Chemistry Laboratory, 12671 W. Golden Lane, San-Antonio, TX 85249, (512) 699-9000.</td>
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<td>Radian Corporation (CH Lab.), 8501 Mopac Boulevard, P.O. Box 201808, Austin, TX 78720-1088, (512) 484-4787.</td>
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<td>Texas Research Institute, Inc., Environmental &amp; Industrial Hygiene Laboratory, 3062 Bee Cave Road, Austin, TX 78733, (512) 263-2163.</td>
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<td>DataChem (DATAC), 960 West LeVoy Drive, Salt Lake City, UT 84117, (801) 266-7700.</td>
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<td>UTAH</td>
<td>ASAIFG/ American Environmental Consultants, Department of Environmental Sciences Laboratory, 3422 S. 700 W., Salt Lake City, UT 84119, (801) 262-2458.</td>
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<td>DelTech, Inc., 630 West LeVoy Drive, Sorenson Research Park, Salt Lake City, UT 84119, (801) 356-9135.</td>
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<td>DataChem (DATAC), 960 West LeVoy Drive, Salt Lake City, UT 84119, (801) 266-7700.</td>
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<td>American Medical Laboratories, Industrial Hygiene, 11091 Main Street, Fairfax, VA 22030, (703) 890-1800.</td>
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<td>Analytics Laboratory, Subsidiary of Roche Biomedical Laboratories, Inc., P.O. Box 25249, Richmond, VA 23299, (804) 353-5973.</td>
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<td>Cen Tec Analy services (CESEC), 2165 Industrial Drive, Salem, VA 24153, (703) 387-3995.</td>
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<td>Newport News Shipbuilding Dry Dock Company, Industrial Hygiene Laboratory, Jackson School, 4101 Washington Avenue, Newport News, VA 23607, (804) 898-2196.</td>
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<td>WASHINGTON</td>
<td>Columbia Analytical Services, 1317 S. Thirteenth Street, P.O. Box 479, Kelso, WA 98626, (360) 577-7262.</td>
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### Appendix 8.2—OSHA-CDC List of Laboratories Approved For Blood Lead Analysis

**Program Description and Background**

Since 1979 OSHA and CDC have monitored laboratory performance in blood lead proficiency testing. Each laboratory is graded for 3 quarters or for an equivalent time period and the approval list is then updated. Laboratories with 89% or more acceptable samples reported are approved. Individual sample results are acceptable if they are within 6 pg/dL of the all-method mean for samples with a mean less than 40 pg/dL or within 15% of the all-method mean for samples with a mean greater than 40 pg/dL. Transcription, clerical or other non-analytical errors leading to results outside the performance limits are considered as errors. Results reported after the survey deadline will not be accepted. Non-participation in a survey will not be accepted without prior exemption from the survey.

The current list is comprised of laboratories that have met the OSHA requirements for blood lead analysis. Laboratories enrolled in programs offered by the College of American Pathologists, New York State Department of Health, and Wisconsin State Laboratory of Hygiene are evaluated on request. Approval is based on the most recent 9 months of testing.

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<td>Laucks Testing Labs, Inc., 940 South Harney Street, Seattle, WA 98108, (Sample Receipt Address: 921 S. Harney St), (206) 787-5080</td>
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<td>Hartford Environmental Health Foundation/NHS, Inc., Environmental Health Sciences Laboratory, 805 Goethals Drive, Richland, WA 99352, (509) 943-0022</td>
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<td>James River Corporation, Environmental Services Division, Industrial Hygiene Laboratory, 904 NW. Drake Street, Camas, WA 98607-7879, (206) 834-8523</td>
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<td>University of Washington, Environmental Health Laboratory, F-461</td>
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<td>Weyerhaeuser (WEYER), 32901 Weyerhaeuser Way South, WTC 2722, Federal Way, WA 98003, (206) 924-6055.</td>
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<td>Chem-Bio Corporation, Aquasearch Division, 140 E. Ryan Road, Oak Creek, WI 53154, (414) 764-7005.</td>
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<td>Parker Services, Inc., Environmental Health Division, 1800 N. Point Drive, Stevens Point, WI 54481, (800) 443-9555.</td>
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<td>Swanson Environmental, 3490 N. 127th Street, Brookfield, WI 53005, (414) 763-6111.</td>
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<td>West Allis Memorial Hospital, Industrial Toxicology Laboratory, 8901 West Lincoln Avenue, West Allis, WI 53227, (414) 546-6315.</td>
<td>AHA</td>
<td>A</td>
<td>X</td>
<td>YES</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

A Test methods are chosen by the laboratory and are reviewed by the AIHA for appropriateness. Test methods vary from laboratory to laboratory.

B Test methods are found in the Statement of Work of the contract issued under the U.S. EPA Contract Laboratory Program.

C Test methods are chosen by the laboratory and are reviewed by AALA for appropriateness. Most of the labs are using methods from "Test Methods for Evaluating Solid Waste", SW-846, 3rd Edition, USEPA, November 1986.

Blood lead testing is to be provided only by laboratories that are currently approved based on the most recent testing. Laboratories whose approval status is suspended because of a cumulative score less than 89% or because of failure to participate in a proficiency survey can no longer analyze worker blood specimens for lead. Instead, a laboratory may arrange to have the analysis performed by an approved laboratory until their laboratory has been reinstated. The servicing laboratory must inform clients of any change in approval status immediately upon receipt of the latest survey results rather than awaiting the publication of an official list. Laboratories should maintain records of their cumulative score based on OSHA criteria.

This list applies only to laboratories corresponding to the names and addresses given and is not valid for any other laboratory with the same or a similar name, or for any branch at a different location that is not so listed. As a convenience, laboratories are listed by state. Employers may use laboratories in any location. Changes in lab name or address should be sent to OSHA to prevent deletion from the list.

As of December 31, 1987 the CDC Laboratory Program Office ceased monitoring laboratory performance for OSHA in the proficiency testing programs. OSHA will review data from the programs and evaluate results in accord with current criteria.

The CDC Center for Environmental Health terminated its blood lead proficiency testing program with the end of the fiscal year September 30, 1987. The program has resumed at the State Laboratory of Hygiene, University of Wisconsin. The CDC Center for Environmental Health will analyze and report the data to OSHA.

The List of Laboratories Approved for Blood Lead Analysis will be updated and distributed as performance data are received. The Health Care Financing Administration will continue its role in jurisdictional matters for laboratories licensed and accredited under CLIA and Medicare.

Laboratories currently participating in the College of American Pathologists, New York State Department of Health, or Wisconsin State Laboratory of Hygiene blood lead programs, but not currently being evaluated for OSHA approval, may submit a written request to the organization for release of the performance data. A written request must also be submitted to OSHA and should include the individual laboratory code number assigned by the program. Laboratories with multiple enrollment will be evaluated based on results obtained in a single program only.

Laboratories participating in the CAP program which have requested CAP send results to OSHA are evaluated based on CAP results only. Laboratories which wish to be evaluated based on other programs must contact the program organization and OSHA.

Note: Check all CAP reports for the words "Copy to Occupational Safety & Health". This indicates OSHA received the CAP report. If this notation is missing, contact CAP and OSHA immediately.
U.S. Department of Labor

OSHA, SLC Analytical Laboratory
1781 South 3rd West
P.O. Box 65200
Salt Lake City, UTAH 84165-0200

OSHA LIST OF LABORATORIES
APPROVED FOR BLOOD LEAD ANALYSIS

UPDATED DECEMBER 11, 1989
OSHA LIST OF LABORATORIES APPROVED FOR BLOOD LEAD ANALYSIS BASED ON PROFICIENCY TESTING

ALABAMA

ALABAMA REFERENCE LABS INC
ATTN: QC COORDINATOR
543 S HULL ST PO BOX 4600
MONTGOMERY, AL 36103

ARIZONA

ST LUKES MEDICAL CENTER
ATTN: MARK G KARTUB, MD
1800 E VAN BUREN
PHOENIX, AZ 85006

CALIFORNIA

CAL DEPT OF HEALTH
ATTN: GUIRGUIS GUIRGUIS
2151 BERKELEY WAY
BERKELEY, CA 94704

MEDICAL SCIENCE LABORATORY
ATTN: JACK D GARNER
1925 E DAKOTA AVE
FRESNO, CA 93726

PHYSICIANS REFERENCE LAB
ATTN: TOXICOLOGY SUPERVISOR
15162 TRITON LANE
HUNTINGTON BEACH, CA 92649

LETTERMAN ARMY MED CENTER
ATTN: DEPT OF PATHOLOGY
BUILDING 1100 ROOM 202
PRESIDIO OF SAN FRANCISCO
SAN FRANCISCO, CA 94129

LOMA LINDA FACULTY MEDICAL LAB
ATTN: RONALD HILLOCK
11370 ANDERSON #2900
LOMA LINDA, CA 92354

MEMORIAL MED CENTER OF LONG BEACH
ATTN: CHEMISTRY DEPT
2801 ATLANTIC AVE
LONG BEACH, CA 90801

DAMON REFERENCE LABORATORIES
ATTN: GEOFFREY MOYER, MD, PH D
1011 RANCHO CONEHO BLVD
NEWBURY PARK, CA 91320
CALIFORNIA

ROCHE BIOMEDICAL LABS INC
ATTN: C ROMMEL/J R VASSER, MD
3714 NORTHGATE BLVD
SACRAMENTO, CA 95834

MARE ISLAND NAVAL SHIPYARD
ATTN: FRANK KIEFFER
IH LAB BUILDING 201
VALLEJO, CA 94592

SMITHKLINE BIO-SCIENCE LABS
ATTN: PETER S NOCE, MD, PH D
7600 TYRONE AVE
VAN NUYS, CA 9140

COLORADO

GATES RUBBER CO ENV LAB
ATTN: CAROLE HAMPTON/PAUL VNEK
PO BOX 5887
DENVER, CO 80217

CONNECTICUT

CONN ST DEPT OF HLTH LAB
ATTN: MARIAN MICHINI, PH D
10 CLINTON ST
HARTFORD, CT 06106

HARTFORD HOSPITAL CLINICAL CHEM
ATTN: MARY ONOROSKI
80 SEYMOUR ST
HARTFORD, CT 06115

YALE-NEW HAVEN HOSPITAL
ATTN: PETER JATLOW, MD
20 YORK ST
NEW HAVEN, CT 06504

OLIN ENV HYGIENE LAB
ATTN: JAMES P DAWSON, CIH
91 SHELTON AVE
NEW HAVEN, CT 06511

FLORIDA

DIAGNOSTIC SERVICES, INC
ATTN: F PHILIP ANDERSON, PH D
349 TAMIAHI TRAIL #9 BOX 2987
NAFLES, FL 33940
GEORGIA

CENTERS FOR DISEASE CONTROL
ATTN: ELAINE GUNTER
C17-2814 F-18
ATLANTA, GA 30333

DDE ARMY MEDICAL CENTER
ATTN: C DEPT OF PATH & ALS
BUILDING 300
FORT GORDON, GA 30905

HAWAII

NAVAL MEDICAL CLINIC
ATTN: INDUSTRIAL HYGIENE LAB
BLDG 285 BOX 121
PEARL HARBOR, HI 96860

IDAHO

TREASURE VALLEY LABORATORY
ATTN: W C PIERCE
5475 BETHEL ST
BOISE, ID 83706

ILLINOIS

ALEX INC
ATTN: LINDA GOETZ
485 S FRONTAGE RD
BURR RIDGE, IL 60521

STROINK PATH LABS INC
ATTN: HANS H STROINK, MD
1015 S MERCER AVE
BLOOMINGTON, IL 61701

LUTHERAN GENERAL HOSP-LINCOLN PARK
ATTN: ROBERT E LEE
2035 N LINCOLN AVE
CHICAGO, IL 60614

PARKE DREVATT LABORATORIES
ATTN: DOUGLAS MURPHY
6434 W BELMONT
CHICAGO, IL 60634
<table>
<thead>
<tr>
<th>State</th>
<th>Organization</th>
<th>Address</th>
<th>City, State</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>Chicago Dept of Health</td>
<td>ATTN: Lorry Blanksma, Ph D</td>
<td>Chicago, IL 60602</td>
</tr>
<tr>
<td></td>
<td>RJ Daley Civic Ctr</td>
<td>Room LL-151</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Michael Reese Hospital</td>
<td>ATTN: Dr Samuel Levin</td>
<td>Chicago, IL 60616</td>
</tr>
<tr>
<td></td>
<td>Biochem - 2 Blum</td>
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<td></td>
<td>Lake Shore Drive at 31st</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Deere &amp; Co</td>
<td>ATTN: Thomas M Snyder</td>
<td>Moline, IL 61244</td>
</tr>
<tr>
<td></td>
<td>Memorial Medical Center</td>
<td>ATTN: Grant C Johnson, MD</td>
<td>Springfield, IL 62781</td>
</tr>
<tr>
<td></td>
<td>MetPath Inc</td>
<td>ATTN: Lynn Bonse</td>
<td>Wood Dale, IL 60191</td>
</tr>
<tr>
<td></td>
<td>Damon Clinical Lab</td>
<td>ATTN: Herndon Shepherd, Ph D</td>
<td>Berwyn, IL 60402</td>
</tr>
<tr>
<td>Indiana</td>
<td>Cummins Engine Co</td>
<td>ATTN: Mike P Clay</td>
<td>Columbus, IN 47201</td>
</tr>
<tr>
<td></td>
<td>Inland Steel Medical Dept</td>
<td>ATTN: Eileen Cummings</td>
<td>East Chicago, IN 46312</td>
</tr>
<tr>
<td></td>
<td>Public Health Lab Division</td>
<td>ATTN:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Indiana St Board of Health</td>
<td>ATTN:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1330 W Michigan</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Indianapolis, IN</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
IOWA
JOHN DEERE DUBUQUE WORKS
ATTN: R E DEBORD
PO BOX 538 DEPT 976
DUBUQUE, IA 52001

UNIVERSITY HYGIENIC LAB
ATTN: WILLIAM HAUSLER, JR, PH D
E 9TH & GRAND H A WALLACE BLDG
DES MOINES, IA 50319

KANSAS
ST FRANCIS REG MED CENTER
ATTN: JOE LIN, MD
929 N ST FRANCIS
WICHITA, KS 67214

KENTUCKY
ST ANTHONY HOSPITAL
ATTN: LASZLO MAKK, MD
1313 ST ANTHONY PLACE
LOUISVILLE, KY 40204

LOUISIANA
ETHYL TECHNICAL CENTER
ATTN: E M SCHAEFFER
8000 GSRI AVE
BATON ROUGE, LA 70820

MARYLAND
MARYLAND MED LAB/PATH BLDG
ATTN: SELVIN PASSEN, MD
1901 SULPHUR SPRING RD
BALTIMORE, MD 21227

MD DEPT HEALTH/MENTAL HYGIENE
ATTN: JOSEPH LIBONATI, PH D
PO BOX 2355
BALTIMORE, MD 21203

TRACE METALS LABORATORY
THE KENNEDY INSTITUTE
ATTN: DR J JULIAN CHISOLM, JR
707 N BROADWAY
BALTIMORE, MD 21205
MINNESOTA

GNB BATTERY CO
ATTN: LARS CONWAY, MD
1110 HIGHWAY 110
MENDOTA HTS, MN 55118

MAYO CLINIC - 530 HILTON
ATTN: FUAD MANSOUR
200 FIRST ST SW
ROCHESTER, MN 55905

NORTHCENTRAL LABORATORIES
6975 SAUKVIEW DR
PO BOX 1417
ST CLOUD, MN 56302

MEDTOX LABORATORIES
ATTN: KINGSLEY R LABROSSE, PH D
402 W COUNTY ROAD D
ST PAUL, MN 55112

MAYO MEDICAL LABORATORIES
ATTN: DR MICHAEL B O’SULLIVAN
200 FIRST ST SW
ROCHESTER, MN 55905

ST PAUL RAMSEY MEDICAL CENTER
ATTN: PATHOLOGY DEPT
640 JACKSON ST
ST PAUL, MN 55101

MISSISSIPPI

THOMAS F PUCKETT LABORATORY
ATTN: JACKIE BLAKENEY
4200 MAMIE ST
HATTIESBURG, MS 39402

MISSOURI

U OF MO - ETSRC
ATTN: LYNN HATMAN
ROUTE 3 SINCLAIR RD
COLUMBIA, MO 65203

SMITHKLINE BIO-SCIENCE
ATTN: CAROL POHL
11636 ADMINISTRATION DR
CREVE COEUR, MO 63146

THE DOE RUN CO
ATTN: B ALBANO, MD
881 MAIN ST PO BOX 158
HERCULANEUM, MO 63048

UPSCHER LABORATORIES
ATTN: CHIEF TECH
20 EAST 14TH ST
KANSAS CITY, MO 64106

CHILDREN'S MERCY HOSPITAL
ATTN: E C BEATTY, JR, MD
24TH & GILLIAM RD
KANSAS CITY, MO 64108
MISSOURI

CITY OF ST LOUIS
PUBLIC HEALTH LABORATORY
634 NORTH GRAND BLVD
ST LOUIS, MO 63103

ST LOUIS COUNTY HEALTH DEPT
ENVIRONMENTAL HEALTH LAB
ATTN: W BLACK, PH D
121 S MERRAMEC
ST LOUIS, MO 63105

MONTANA

MT DEPT HEALTH & ENV SCIENCE
ATTN: JOHN D HAWTHORNE
COGSWELL BUILDING
HELENA, MT 59620

NEBRASKA

PHYSICIANS LABORATORY SERVICES
ATTN: DR B Y ROFFMAN
105 N 37TH ST
OMAHA, NE 68131

NEVADA

REYNOLDS ELECT & ENG CO
ATTN: FREDERICK C SHELLY
PO BOX 98521 M/S 706
LAS VEGAS, NV 89193

NEW HAMPSHIRE

NH PUBLIC HEALTH LABORATORY
ATTN: VERONICA HAMLBERG
6 HAXEN DR
CONCORD, NH 03301

METROPOLITAN REFERENCE LAB
ATTN: SAM FRANKEL, PH D
11636 LACKLAND ROAD
ST LOUIS, MO 63146

THE DOE RUN CO
ATTN: DENIS MURPHY
CENTRAL LAB PO BOX 500
VIBURNUM, MO 65566

SIERRA NEVADA LABS INC
ATTN: ANTOINETTE CAVIN
888 WILLOW ST
RENO, NV 89502
NEW JERSEY

BIOMED CLINICAL LABORATORIES
ATTN: DOMINICK N CETANI, JR
1340 HAMBURG TURNPIKE
WAYNE, NJ 07470

ROCHE BIOMEDICAL LABS INC
ATTN: M HAIDER, PH D
5 JOHNSON DR
RARITAN, NJ 08869

KAULSON LABORATORIES
ATTN: RANDHIR SANDHU
691 BLOOMFIELD AVE
CALDWELL, NJ 07006

PATERSON PUBLIC HEALTH LABS
ATTN: MAHESH GOEL, DVM, PH D
176 BROADWAY
PATERSON, NJ 07505

NEW YORK

BENDER HYGIENIC LABORATORY
ATTN: JEFFREY HUBBARD, MD
9 SAMARITAN DR
ALBANY, NY 12208

CLINICAL LAB EVALUATION UNIT
NEW YORK STATE DEPT OF HEALTH
ATTN: DR PATRICK J PARSONS
EMPIRE STATE PLAZA
ALBANY, NY 12201

ERIE COUNTY LABORATORY
PUBLIC HEALTH DIVISION
ATTN: DR RICHARD E BETTIGOLE
1021 MAIN ST
BUFFALO, NY 14203

BRUNSWICK HOSPITAL CENTER
ATTN: DR SIDNEY B WEINBERG
366 BROADWAY
AMITYVILLE, NY 11701

CHARLES M SHAPIRO & SONS
ATTN: ELLIOT J SHAPIRO, PE
6315 MILL LANE
BROOKLYN, NY 11234

MONROE COUNTY HEALTH DEPT
ATTN: DR NICHOLAS FORBES
CALLER 632
ROCHESTER, NY 14692

UNIVERSITY OF ROCHESTER
TRACE METALS LABORATORY
SCHOOL OF MEDICINE
PO BOX EHSC
ROCHESTER, NY 14642

MONROE COUNTY HEALTH DEPT
ATTN: DR NICHOLAS FORBES
CALLER 632
ROCHESTER, NY 14692

ONONDAGA COUNTY PUBLIC HLTH LAB
ATTN: ERIK KMITCHELL, MD
600 S STATE ST ROOM 803
SYRACUSE, NY 13202
NEW YORK

ROCKLAND MEDILABS INC
ATTN: DR ALEX N HELPER
41 ROUTE 303
VALLEY COTTAGE, NY 10989

NYC DEPT OF HEALTH
TOXICOLOGY LABORATORY
4551 1ST AVE
NEW YORK, NY 10016

ROCHE BIOMEDICAL LABS INC
ATTN: L S HALE
1447 YALE COURT
BURLINGTON, NC 27215

RESEARCH & ANALYTICAL
ATTN: SIDNEY CHAMPION
106 SHORT ST PO BOX 473
KERNERSVILLE, NC 27284

OHIO

U OF CINCINNATI MEDICAL CENTER
ATTN: KAGEN/ANALYTICAL SECTION
3223 EDEN AVE KETTERING LAB
CINCINNATI, OH 45267

PROVIDENCE HOSPITAL
ATTN: VICTOR CABANAS, MD
2446 KIPLING AVE
CINCINNATI, OH 45239

CLEVELAND CLINIC FOUNDATION
ATTN: T L GAVAN, MD LAB MED 121
9500 EUCLID AVE
CLEVELAND, OH 44106

CLINICAL HEALTH LABS INC
ATTN: ALAN FIRESTONE
26300 EUCLID AVE SUITE 910
CLEVELAND, OH 44132

OHIO DEPT OF HEALTH LABS
ATTN: GARY DAVIDSON, PH D
1571 PERRY ST BOX 2568
COLUMBUS, OH 43266

ROCHE BIOMEDICAL LABS INC
ATTN: G E BARNETT, MD
6370 WILCOX RD
DUBLIN, OH 43017
OHIO

SOUTHCATE MEDICAL LAB INC
ATTN: EDWARD E SIEGLER, MD
21100 SOUTHGATE PK BLVD 5TH FL
MAPLE HEIGHTS, OH 44137

DEYOR LABORATORIES
ATTN: ANTHONY NASRALLAH, PH D
7655 MARKET STREET SUITE 2500
YOUNGSTOWN, OH 44512

OKLAHOMA

EAGLE-PICHER INDUSTRIES INC
ATTN: IVAN RILEY
200 9TH AVE NE PO BOX 1090
MIAMI, OK 74354

OREGON

MEDLAB INC
ATTN: GARY W HIBLER, PH D
220 NE RUSSELL ST BOX 3380
PORTLAND, OR 97208

PENNSYLVANIA

EAST PENN MANUFACTURING CO
ATTN: ROBERT FLICKER
DEKA ROAD
LYON STATION, PA 19536

USS TECHNICAL CENTER
ATTN: W L DOYLE
4000 TECH CENTER DR #93
MONROEVILLE, PA 15146

CLINICAL PATHOLOGY FACILITY
ATTN: WILLIAM ZEILER, MD
711 BINGHAM ST
PITTSBURGH, PA 15203

MEDICAL COLLEGE OF OHIO
ATTN: AL GEHA, PATHOLOGY
3000 ARLINGTON AVE
TOLEDO, OH 43614

DEYOR LABORATORIES
ATTN: ANTHONY NASRALLAH, PH D
7655 MARKET STREET SUITE 2500
YOUNGSTOWN, OH 44512

MEDLAB INC
ATTN: GARY W HIBLER, PH D
220 NE RUSSELL ST BOX 3380
PORTLAND, OR 97208

METROLAB
ATTN: LABORATORY
235 N GRAHAM ST
PORTLAND, OR 97227

LANCASTER GENERAL HOSPITAL
ATTN: GERALD R FAHS, MD
555 N DUKE ST PO BOX 3555
LANCASTER, PA 17603

SMITHKLINE BIO-SCIENCE LABS INC
ATTN: WILLIAM KASHATUS, MD
400 EGYPT ROAD
NORRISTOWN, PA 19403

IHF ANALYTICAL LABORATORY
ATTN: MARIANNE KASCHAK
34 PENN CIRCLE WEST
PITTSBURGH, PA 15206
PENNSYLVANIA

DAMON CLINICAL LABORATORIES
ATTN: MARGARET R BEAMER
3190 TREMONT AVE
TREVOSE, PA 19047

NATIONAL MEDICAL SERVICES INC
ATTN: DR FREDERIC RIEDERS
2300 STRATFORD AVE
WILLOW GROVE, PA 19090

EXIDE CORPORATION
ATTN: ROBERT J NAULTY
6313 RISING SUN AVE
PHILADELPHIA, PA 19111

RHODE ISLAND

RHODE ISLAND HOSPITAL
ATTN: PATHOLOGIST-IN-CHIEF
593 EDDY ST APC 12
PROVIDENCE, RI 02902

SOUTH CAROLINA

MEDICAL UNIVERSITY OF SC
ATTN: G WICKER, LAB MEDICINE
171 ASHLEY AVE
CHARLESTON, SC 29425

SC DEPT HEALTH & ENV CONTROL
ATTN: EDWARD WILLIAMS
8231 PARKLANE RD PO BOX 2202
COLUMBIA, SC 29202

TENNESSEE

TENNESSEE EASTMAN CO
ATTN: JAMES GILLAND, JR
PO BOX 1975
KINGSPORT, TN 37662

SPECIALIZED ASSAYS INC
ATTN: KAY WILLIAMS-SMITH
210 12TH AVE S BOX 25110
NASHVILLE, TN 37202

BAPTIST REGIONAL LABORATORIES
ATTN: MICHAEL V STEVENS, PH D
22 N PAULINE
MEMPHIS, TN 38105

MEMPHIS SHELBY COUNTY HEALTH DEPT LAB
ATTN: I M PETERSON
814 JEFFERSON AVE
MEMPHIS, TN 38105
<table>
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<tr>
<th>State</th>
<th>Laboratory Name</th>
<th>Address</th>
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<th>ZIP Code</th>
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<tr>
<td>Texas</td>
<td>AMARILLO CLINICAL LAB</td>
<td>ATTN: JOSE DIAZ-ESQUIVEL, MD</td>
<td>AMARILLO, TX</td>
<td>79106</td>
</tr>
<tr>
<td></td>
<td>SHIOTHKLINE BIOSCIENCE LAB</td>
<td>ATTN: DENNEY FRANK</td>
<td>DALLAS, TX</td>
<td>75247</td>
</tr>
<tr>
<td></td>
<td>RSR CORP QUEMETCO LABS</td>
<td>ATTN: CHARLES KENNER, PHD</td>
<td>DALLAS, TX</td>
<td>75212</td>
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<tr>
<td></td>
<td>PATHLAB PA</td>
<td>ATTN: RICHARD JUEL, MD</td>
<td>EL PASO, TX</td>
<td>79906</td>
</tr>
<tr>
<td></td>
<td>TX COLLEGE OF OSTEOMEDICINE</td>
<td>ATTN: GARY WIMBISH, PHD</td>
<td>FORT WORTH, TX</td>
<td>76107</td>
</tr>
<tr>
<td></td>
<td>NATIONAL HEALTH LABORATORIES</td>
<td>ATTN: GEORGE C. MANI, MD</td>
<td>SAN ANTONIO, TX</td>
<td>78213</td>
</tr>
<tr>
<td>Utah</td>
<td>ARUP CLINICAL LABS</td>
<td>ATTN: C R KJEDSBERG, MD</td>
<td>SALT LAKE CITY, UT</td>
<td>84108</td>
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<tr>
<td></td>
<td>USDOL-OSHA</td>
<td>ANALYTICAL LABORATORY</td>
<td>SALT LAKE CITY, UT</td>
<td>84165</td>
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<tr>
<td></td>
<td>BIORACE-ASARCO</td>
<td>ATTN: SANDRA NACKOWSKI</td>
<td>SALT LAKE CITY, UT</td>
<td>84119</td>
</tr>
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</table>
VERMONT

MEDICAL CENTER HOSPITAL OF VT
ATTN: F CZERNIAWSKI
MARY FLETCHER LABORATORY
BURLINGTON, VT 05401

VIRGINIA

AMERICAN MEDICAL LABORATORIES
ATTN: JAN TURNER
11091 MAIN ST PO BOX 188
FAIRFAX, VA 22030

NAVY ENV PREV MED UNIT #2
ATTN: OFFICER IN CHARGE BLDG X336
IH LAB
NORFOLK, VA 23511

UNIVERSITY OF VA HOSPITAL
ATTN: ROBERT BROWNING - CLIN LAB
JEFFERSON PARK AVE
CHARLOTTESVILLE, VA 22908

WASHINGTON

BOEING CO
ATTN: MASON W CAMPBELL
PO BOX 3707 MSBH-08
SEATTLE, WA 98124

NEWPORT NEWS SHIPBUILDING
028 MEDICAL BLDG 15
ATTN: S A MONDAY
4101 WASHINGTON AVE MCS 161
NEWPORT NEWS, VA 23607

RIVERSIDE INDUSTRIAL LABS
ATTN: PARRY BRAGG
1300 OLD DENBIGH RD
NEWPORT NEWS, VA 23602
WISCONSIN

MARSHFIELD MED CTR-ST JOSEPHS
ATTN: KOSASIH GANI, MD
1000 N OAK AVE
MARSHFIELD, WI 54449

MILWAUKEE HEALTH DEPT
ATTN: WILLIAM N JENSEN
841 N BROADWAY ROOM 308
MILWAUKEE, WI 53202

WEST ALLIS MEMORIAL HOSPITAL
ATTN: JAY SCHAMBERG, MD
8901 W LINCOLN AVE BOX 27167A
WEST ALLIS, WI 53227

CANADA

HEALTH AND WELFARE CANADA
ATTN: DR STEPHEN HALL
OCCUPATIONAL HEALTH UNIT
BLDG 17 TUNNEYS PASTURE
OTTAWA, ONTARIO, CAN K1A 0L3

LE CENTRE HOSPITALIER
DE L’UNIVERSITE LAVAL
ATTN: JEAN-PHILIPPE WEBER
2705 BOUL LAURIER
SAINTE-FOY, QUEBEC, CAN G1V 4G2
PROGRAM DIRECTORY

Information regarding program changes affecting laboratories approved for blood lead analysis may be obtained by contacting the following organizations:

OCCUPATIONAL SAFETY & HEALTH ADMINISTRATION

USDOL-OSHA Analytical Laboratory
PO Box 65200
1781 South 300 West
Salt Lake City, UT 84165-0200

William E. Babcock, Blood Lead Program Director
FTS 588-4270
(801)524-4270

COLLEGE OF AMERICAN PATHOLOGISTS

William E. Williamson, Director
Laboratory Improvement Programs
325 Waukegan Road
Northfield, IL 60093-2750
(312)446-8800

Diane Gilbo, Surveys Manager
CAP Computer Center
P.O. Box 1234
Traverse City, MI 49685-1234
(616)947-4500/(800)253-1790

NEW YORK STATE DEPT. OF HEALTH

Lead Poisoning Laboratory
Wadsworth Center for Laboratories and Research
PO Box 509 Empire State Plaza
Albany, NY 12201-0509

Dr. P.J. Parsons, Director
(518)474-5475
WISCONSIN STATE LABORATORY OF HYGIENE

Nationwide Blood Lead Proficiency Testing Program
Noel Stanton, Pb/EPPT Program Supervisor
William D. Stovall Building (608) 262-1146
465 Henry Mall
Madison, WI 53706

CENTERS FOR DISEASE CONTROL

Center for Environmental Health
Blood Lead Proficiency Testing
Childhood Lead Program
Koger Center F-37 1600 Clifton Road
Atlanta, Georgia 30338

James M. Simpson, Public Health Advisor
Louise Yert, Chemist
FTS 236-4780 (404)488-4780

BILLING CODE 4210-33-C
Appendix 9—Handbook for Small Waste Generators

Understanding the Small Quantity Generator Hazardous Waste Rules:

A Handbook for Small Business
In 1976, Congress passed the Resource Conservation and Recovery Act (RCRA) which directed the U.S. Environmental Protection Agency (EPA) to develop and implement a program to protect human health and the environment from improper hazardous waste management practices. The program is designed to control the management of hazardous waste from its generation to its ultimate disposal—from "cradle-to-grave."

EPA first focused on large companies, which generate the greatest portion of hazardous waste. Business establishments producing less than 1000 kilograms (2,200 pounds) of hazardous waste in a calendar month (known as small quantity generators) were exempted from most of the hazardous waste management regulations published by EPA in May 1980.

In recent years, however, public attention has been focused on the potential for environmental and health problems that may result from mismanaging even small quantities of hazardous waste. For example, small amounts of hazardous waste dumped on the land may seep into the earth and contaminate underground water that supplies drinking water wells.

In November 1984, the Hazardous and Solid Waste Amendments to RCRA were signed into law. With these amendments, Congress directed EPA to establish new requirements that would bring small quantity generators who generate between 100 and 1000 kilograms (kg) of hazardous waste in a calendar month into the hazardous waste regulatory system. EPA issued final regulations for these 100 to 1000 kg/mo generators on March 24, 1986. Most of the requirements are effective September 22, 1986.

PAY ATTENTION TO THESE DATES!

**September 22, 1986**
Most of the new rules for small quantity generators of hazardous waste become effective. Noncompliance may lead to fines and legal action.

**March 24, 1987**
Small quantity generators that decide to store hazardous waste for longer than six months, perform certain kinds of waste treatment, or dispose of hazardous waste on their property must apply for a RCRA permit and comply with additional rules. (See Chapter 4)

ABOUT THIS HANDBOOK

This handbook was prepared by the U.S. Environmental Protection Agency (EPA) to help small business owners and managers understand how the federal hazardous waste management laws may affect their businesses.

The information in this handbook will help you determine whether your business is a regulated small quantity generator of hazardous waste. Specific information is provided to help you understand how to:

- Obtain a U.S. EPA Identification Number.
- Use the Uniform Hazardous Waste Manifest system when shipping hazardous waste off-site.
- Select hazardous waste transporters who have U.S. EPA Identification Numbers.
- Accumulate hazardous waste on-site for no more than 180 days, or 270 days if the waste is to be shipped more than 200 miles, without obtaining a hazardous waste storage permit.
- Ensure that hazardous waste is managed at a hazardous waste facility with interim status or a permit under RCRA.

The chapters in this handbook describe these new requirements, and provide some step-by-step instructions to help you meet your responsibilities as a small quantity generator of hazardous wastes.

This handbook presents a description of the federal regulations only. You should be sure to contact your state hazardous waste management agency for additional help and information on state requirements. Telephone numbers for state hazardous waste management agencies are listed in Appendix A.
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CHAPTER 1

DOES YOUR BUSINESS GENERATE HAZARDOUS WASTE?

What is a Hazardous Waste?
A waste is any solid, liquid, or contained gaseous material that you no longer use, and either recycle, throw away, or store until you have enough to treat or dispose of.

As a result of doing business, a company may generate wastes that can cause serious problems if not handled and disposed of carefully. Such wastes could:
- cause injury or death; or
- damage or pollute land, air, or water.
These wastes are considered hazardous, and they are currently regulated by federal and state public health and environmental safety laws.

There are two ways a waste may be brought into the hazardous waste regulatory system: listing, and identification through characteristics.

- Listed wastes. Your waste is considered hazardous if it appears on any one of the four lists of hazardous wastes contained in the RCRA regulations. These wastes have been listed because they either exhibit one of the characteristics described below or contain any number of toxic constituents that have been shown to be harmful to health and the environment. The regulations list over 400 hazardous wastes, including wastes derived from manufacturing processes and discarded commercial chemical products. Many of the listed hazardous wastes that you are likely to generate are included in Appendix B of this handbook.

- Characteristic wastes. Even if a waste does not appear on one of the EPA lists, it is considered hazardous if it has one or more of the following characteristics:

  - It is easily combustible or flammable. This is called an ignitable waste. Examples are paint wastes, certain degreasers, or other solvents.

  - It dissolves metals, other materials, or burns the skin. This is called a corrosive waste. Examples are waste rust removers, waste acid or alkaline cleaning fluids, and waste battery acid.

  - It is unstable or undergoes rapid or violent chemical reaction with water or other materials. This is called a reactive waste. Examples are cyanide plating wastes, waste bleaches, and other waste oxidizers.
A waste sample is tested and shows EP (extraction procedure) toxicity. Wastes are EP toxic if an extract from the waste is tested and found to contain high concentrations of heavy metals (such as mercury, cadmium, or lead) or specific pesticides that could be released into the ground water.

Your industry may generate other hazardous wastes beyond the examples mentioned above. It is your responsibility to determine whether your wastes are hazardous. If you need assistance, call one of the sources of information listed below in Table 1. A list of the typical hazardous wastes for your industry is also provided in Table 2.

See Appendix A for a complete list of EPA regional offices and state hazardous waste management agencies.

### Table 1

While the rules and regulations for managing hazardous waste are complex, help is available.

For more information, call:
- Your state hazardous waste management agency (See Appendix A)
- Your EPA regional office (See Appendix A)
- The RCRA/Superfund Hotline – 1-800-424-9346 (In Washington, D.C.: 382-3000)
- Your national trade association or its local chapter

### Acutely Hazardous Wastes

Some wastes are considered to be “acutely hazardous.” These are wastes that EPA has determined to be so dangerous in small amounts that they are regulated the same way as are large amounts of other hazardous wastes. Acutely hazardous wastes, for example, may be generated using certain pesticides. They also include dioxin-containing wastes.

Wastes that appear in Appendix B with an asterisk (*) have been designated acutely hazardous. If your business generates more than 1 kg (approximately 2.2 pounds) of acutely hazardous wastes in a calendar month or stores more than that amount for any period of time, you are subject to all of the regulations that apply to generators that generate more than 1000 kilograms of hazardous waste per calendar month. Contact one of the sources of information listed in Appendix A for more information about acutely hazardous wastes.
<table>
<thead>
<tr>
<th>Type of Business</th>
<th>Types of Hazardous Wastes Generated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Cleaning and Maintenance</td>
<td>Acids/Bases</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
<tr>
<td>Chemical Manufacturers</td>
<td>Acids/Bases</td>
</tr>
<tr>
<td></td>
<td>Cyanide Wastes</td>
</tr>
<tr>
<td></td>
<td>Heavy Metals/Inorganics</td>
</tr>
<tr>
<td></td>
<td>Ignitable Wastes</td>
</tr>
<tr>
<td></td>
<td>Reactives</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
<tr>
<td>Cleaning Agents and Cosmetics</td>
<td>Acids/Bases</td>
</tr>
<tr>
<td></td>
<td>Heavy Metals/Inorganics</td>
</tr>
<tr>
<td></td>
<td>Ignitable Wastes</td>
</tr>
<tr>
<td></td>
<td>Pesticides</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
<tr>
<td>Construction</td>
<td>Acids/Bases</td>
</tr>
<tr>
<td></td>
<td>Ignitable Wastes</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
<tr>
<td>Educational and Vocational Shops</td>
<td>Acids/Bases</td>
</tr>
<tr>
<td></td>
<td>Ignitable Wastes</td>
</tr>
<tr>
<td></td>
<td>Pesticides</td>
</tr>
<tr>
<td></td>
<td>Reactives</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
<tr>
<td>Equipment Repair</td>
<td>Acids/Bases</td>
</tr>
<tr>
<td></td>
<td>Ignitable Wastes</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
<tr>
<td>Formulators</td>
<td>Acids/Bases</td>
</tr>
<tr>
<td></td>
<td>Cyanide Wastes</td>
</tr>
<tr>
<td></td>
<td>Heavy Metals/Inorganics</td>
</tr>
<tr>
<td></td>
<td>Ignitable Wastes</td>
</tr>
<tr>
<td></td>
<td>Pesticides</td>
</tr>
<tr>
<td></td>
<td>Reactives</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
<tr>
<td>Funeral Services</td>
<td>Solvents</td>
</tr>
<tr>
<td></td>
<td>Formaldehyde</td>
</tr>
<tr>
<td>Furniture/Wood Manufacturing and Refinishing</td>
<td>Ignitable Wastes</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
</tbody>
</table>

*Additional information on typical waste streams is found in Appendix B of this handbook.*
### TABLE 2

**TYPICAL WASTE STREAMS GENERATED BY SMALL QUANTITY GENERATOR**

(continued)

<table>
<thead>
<tr>
<th>Type of Business</th>
<th>Types of Hazardous Wastes Generated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Laboratories</td>
<td>Acids/Bases</td>
</tr>
<tr>
<td></td>
<td>Heavy Metals/Inorganics</td>
</tr>
<tr>
<td></td>
<td>Ignitable Wastes</td>
</tr>
<tr>
<td></td>
<td>Reactives</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
<tr>
<td>Laundries and Dry Cleaners</td>
<td>Dry Cleaning Filtration Residues</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
<tr>
<td>Metal Manufacturing</td>
<td>Acids/Bases</td>
</tr>
<tr>
<td></td>
<td>Cyanide Wastes</td>
</tr>
<tr>
<td></td>
<td>Heavy Metals/Inorganics</td>
</tr>
<tr>
<td></td>
<td>Ignitable Wastes</td>
</tr>
<tr>
<td></td>
<td>Reactives</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
<tr>
<td></td>
<td>Spent Plating Wastes</td>
</tr>
<tr>
<td>Motor Freight Terminals and Railroad Transportation</td>
<td>Acids/Bases</td>
</tr>
<tr>
<td></td>
<td>Heavy Metals/Inorganics</td>
</tr>
<tr>
<td></td>
<td>Ignitable Wastes</td>
</tr>
<tr>
<td></td>
<td>Lead-Acid Batteries</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
<tr>
<td>Other Manufacturing:</td>
<td></td>
</tr>
<tr>
<td>1) Textiles</td>
<td>Heavy Metals/Inorganics</td>
</tr>
<tr>
<td>2) Plastics</td>
<td>Solvents</td>
</tr>
<tr>
<td>3) Leather</td>
<td></td>
</tr>
<tr>
<td>Pesticide End Users and Application Services</td>
<td>Heavy Metals/Inorganics</td>
</tr>
<tr>
<td></td>
<td>Pesticides</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
<tr>
<td>Printing and Allied Industries</td>
<td>Acids/Bases</td>
</tr>
<tr>
<td></td>
<td>Heavy Metals/Inorganics</td>
</tr>
<tr>
<td></td>
<td>Ink Sludges</td>
</tr>
<tr>
<td></td>
<td>Spent Plating Wastes</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
<tr>
<td>Vehicle Maintenance</td>
<td>Acids/Bases</td>
</tr>
<tr>
<td></td>
<td>Heavy Metals/Inorganics</td>
</tr>
<tr>
<td></td>
<td>Ignitable Wastes</td>
</tr>
<tr>
<td></td>
<td>Lead-Acid Batteries</td>
</tr>
<tr>
<td></td>
<td>Solvents</td>
</tr>
<tr>
<td>Wood Preserving</td>
<td>Preserving Agents</td>
</tr>
</tbody>
</table>

*Additional information on typical waste streams is found in Appendix B of this handbook.*
DETERMINING YOUR GENERATOR STATUS

Categories of Hazardous Waste
Generators

In March 1986, the federal rules for hazardous waste management were modified to bring businesses that generate small amounts of hazardous waste into the regulatory system. Previously, these small quantity generators that generate less than 1000 kilograms (or about 2,200 pounds) of hazardous waste in a calendar month had been exempt from most hazardous waste regulations.

The 1986 rules set new requirements specifically for those generators that generate between 100 and 1000 kilograms of hazardous waste in a calendar month. Consequently, there are three categories of hazardous waste generators, shown in Table 3: (1) generators of no more than 100 kilograms/month (also known as conditionally-exempt small quantity generators); (2) 100 to 1000 kilograms/month (kg/mo) small quantity generators; and (3) generators of 1000 kilograms or more in a month.

Determining Your Generator Category

To determine which category of hazardous waste generator your business falls into—and what requirements you must meet—you must measure or "count" the hazardous wastes your business generates in a calendar month. In general, you must add up the weight of all the hazardous wastes your business generates during a month; the total weight will determine your generator category.

Table 4 summarizes the kinds of wastes you must count and wastes you do not count when you determine your generator status.

When you begin to count your hazardous wastes each month, it may be confusing at first to determine what kinds of hazardous wastes you generate and how much. If you have questions, call the EPA RCRA/Superfund Hotline or your state hazardous waste management agency listed in Appendix A.

If you decide to accumulate hazardous waste until you have collected enough to make transport to a licensed hazardous waste management facility more economical, make sure that:

► You accumulate no more than 6000 kg of hazardous waste in any 180 day period (270 days are allowed if you must transport your waste over 200 miles to a licensed hazardous waste facility) if you are a 100-1000 kg/mo generator. Otherwise, you will need to obtain a special storage permit.

► You accumulate no more than 1000 kg of hazardous waste at any time if you are a generator of no more than 100 kg/mo.
### TABLE 3

**CATEGORIES OF HAZARDOUS WASTE GENERATORS**

**KEY:**
-  = 1 barrel = about 200 kilograms of hazardous waste which is about 55 gallons

<table>
<thead>
<tr>
<th>Generators of No More Than 100 kg/mo</th>
<th>100-1000 kg/mo Generators</th>
<th>Generators of 1000 kg/mo or More</th>
</tr>
</thead>
<tbody>
<tr>
<td>If you generate no more than 100 kg/mo of hazardous waste and no hazardous waste in any calendar month, you are a conditionally-exempt small quantity generator and the federal hazardous waste laws require you to:</td>
<td>If you generate more than 100 and less than 1000 kg (between 220 and 2200 pounds or about 25 to under 300 gallons) of hazardous waste and no more than 1 kg of acutely hazardous waste in any month, you are a 100-1000 kg/mo generator and the federal hazardous waste laws require you to:</td>
<td>If you generate 1000 kg (about 2200 pounds or 300 gallons) or more of hazardous waste, or more than 1 kg of acutely hazardous waste in any month, you are a generator of 1000 kg/mo or more and the federal hazardous waste laws require you to:</td>
</tr>
<tr>
<td>► Identify all hazardous waste you generate.</td>
<td>► Comply with the 1986 rules for managing hazardous waste, including the accumulation, treatment, storage, and disposal requirements described in this handbook.</td>
<td>► Comply with all applicable hazardous waste management rules.</td>
</tr>
<tr>
<td>► Send this waste to a hazardous waste facility, or a landfill or other facility approved by the state for industrial or municipal wastes.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>► Never accumulate more than 1000 kg of hazardous waste on your property. (If you do, you become subject to all the requirements applicable to 100-1000 kg/mo generators explained in this handbook.)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### TABLE 4

## COUNTING YOUR HAZARDOUS WASTE

<table>
<thead>
<tr>
<th>Do Count</th>
<th>Don't Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>You do count all quantities of “Listed” and “Characteristic” hazardous wastes as defined on page 2 that you:</td>
<td>You do not have to count wastes that:</td>
</tr>
<tr>
<td>► Accumulate on-site for any period of time prior to subsequent management.</td>
<td>► Are specifically exempted from counting. Examples of these exempted wastes are:</td>
</tr>
<tr>
<td>► Package and transport off-site.</td>
<td>• spent lead-acid batteries that will be sent off-site for reclamation.</td>
</tr>
<tr>
<td>► Place directly in a regulated on-site treatment or disposal unit.</td>
<td>• used oil that has not been mixed with hazardous waste.</td>
</tr>
<tr>
<td>► Generate as still bottoms or sludges and remove from product storage tanks.</td>
<td>► May be left in the bottom of containers that have been completely emptied through conventional means, for example, by pouring or pumping. Containers that held an acute hazardous waste must be more thoroughly cleaned.</td>
</tr>
<tr>
<td></td>
<td>► Are left as residue in the bottom of product storage tanks, if the residue is not removed from the product tank.</td>
</tr>
<tr>
<td></td>
<td>► You reclaim continuously on-site without storing the waste prior to reclamation, such as dry cleaning solvents. (You do have to count any residue removed from the machine as well as spent cartridge filters.)</td>
</tr>
<tr>
<td></td>
<td>► You manage in an elementary neutralization unit, a totally enclosed treatment unit, or a wastewater treatment unit. An elementary neutralization unit is a regulated tank, container, or transport vehicle (including ships) which is designed to contain and neutralize corrosive wastes.</td>
</tr>
<tr>
<td></td>
<td>► Are discharged directly to a publicly-owned treatment works (POTW) without being stored or accumulated first. This discharge to a POTW must comply with the Clean Water Act. POTWs are public utilities, usually owned by the city, county, or state, that treat industrial and domestic sewage for disposal.</td>
</tr>
<tr>
<td></td>
<td>► You have already counted once during the calendar month, and treated on-site or reclaimed in some manner, and used again.</td>
</tr>
</tbody>
</table>
Changing Generator Categories

Under the federal hazardous waste management system, you may be regulated under different rules at different times, depending on the amount of hazardous waste you generate in a given month. For example, if in June, you generate 100 kg or less of hazardous waste, you would be a conditionally-exempt small quantity generator for June. If, in July, your waste totals more than 100 kg but less than 1000 kg, your status changes and your July wastes would be subject to the requirements for 100-1000 kg/mo generators. If in September you generate 1000 kg or more of hazardous waste, your September waste would be subject to all applicable hazardous waste management regulations, as would all other hazardous waste you generated in previous months and mixed with your September wastes.

If, after counting your wastes, you have determined that you never generate more than 100 kg/mo of hazardous waste, you need not read the following chapters. As a conditionally-exempt small quantity generator, you must:

- Identify your wastes as hazardous.
- Dispose of them in a hazardous waste facility, or a landfill or other facility approved by the State for industrial or municipal wastes.
- Never accumulate more than 1000 kg of hazardous waste at your facility, or you become subject to all of the requirements for 100-1000 kg/mo generators.

If, however, you do generate between 100 and 1000 kg of hazardous waste in a month, the remainder of this handbook will explain what you must do to handle your hazardous wastes safely and legally.

Remember, many states have different generator categories and requirements. If you have any questions about your generator status, call your state agency (See Appendix A) for assistance.
CHAPTER 3

OBTAINING A U.S. EPA IDENTIFICATION NUMBER

THE THREE MOST IMPORTANT THINGS YOU SHOULD KNOW ABOUT OBTAINING YOUR EPA ID NUMBER

1. Call your state agency or EPA regional office to get a notification form.
2. Fill out the form and sign it.
3. Send the form to the hazardous waste contact listed for your state.

If your business generates more than 100 kg of hazardous waste in any calendar month, you will need to obtain a U.S. EPA Identification Number. Transporters and facilities that store, treat, or dispose of regulated quantities of hazardous waste must also have U.S. EPA Identification Numbers. These twelve-character identification numbers used by EPA and states are part of a national database on hazardous waste activities.

To obtain your U.S. EPA Identification Number:

- Call or write your state hazardous waste management agency or EPA regional office (see Appendix A) and ask for a copy of EPA Form 8700-12, "Notification of Hazardous Waste Activity." You will be sent a booklet containing the two-page form and instructions for filling it out. Figure 1 provides a sample copy of a completed notification form to show you the kind of information required. (Note: A few states use a form that is different from the form shown in Figure 1. Your state will send you the appropriate form to complete.)

- Fill in the form with the same kinds of information shown in the sample form in Figure 1. This information covers your "installation" (your business site) and your hazardous wastes. To complete Item X of the form, you need to identify your hazardous waste by the EPA hazardous waste number. Appendix B contains some common waste types generated by small quantity generators, along with their EPA hazardous waste numbers. If you do not understand the information in Appendix B, or if you cannot match your wastes with those listed, seek help from one of the sources listed in Appendix A.

- Complete one copy of the form for each of your plant sites or business locations where you generate or handle hazardous wastes. Each site or location will receive its own U.S. EPA Identification Number.

- Make sure your form is filled out completely and correctly and sign the certification in Item XI. Send the form to your state hazardous waste contact. This address is listed in the information booklet you received with the form. This information will be recorded by EPA and the state, and you will be assigned a U.S. EPA Identification Number. This number will be unique to the site identified on your form. Use this number on all hazardous waste shipping papers.

The U.S. EPA Identification Number will stay with the business site or location. If you move your business to another location, you must notify EPA or the state of your new location and submit a new form. If hazardous waste was previously handled at the new location, and it already has a U.S. EPA Identification Number, you will be assigned that number for the site after you have notified EPA.
**FIGURE 1**

**SAMPLE “NOTIFICATION OF HAZARDOUS WASTE ACTIVITY” FORM**

Please print or type with ELITE type (12 characters per inch) in the unshaded areas only.

**For Official Use Only**

<table>
<thead>
<tr>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Installation’s EPA ID Number</td>
</tr>
<tr>
<td>C</td>
</tr>
</tbody>
</table>

I. **Name of Installation**

*GENERAL METAL PROCESSING CO*

II. **Installation Mailing Address**

<table>
<thead>
<tr>
<th>Street or P.O. Box</th>
<th>City or Town</th>
<th>State</th>
<th>ZIP Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>501 MAIN ST</td>
<td>SMALLETTOWN</td>
<td>VA</td>
<td>23000</td>
</tr>
</tbody>
</table>

III. **Location of Installation**

<table>
<thead>
<tr>
<th>Street or Route Number</th>
<th>City or Town</th>
<th>State</th>
<th>ZIP Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>501 MAIN ST</td>
<td>SMALLETTOWN</td>
<td>VA</td>
<td>23000</td>
</tr>
</tbody>
</table>

IV. **Installation Contact**

<table>
<thead>
<tr>
<th>Name and Title (last, first, and job title)</th>
<th>Phone Number (area code and number)</th>
</tr>
</thead>
<tbody>
<tr>
<td>JONES WILLIAM MANGRBoH</td>
<td>555 0509</td>
</tr>
</tbody>
</table>

V. **Ownership**

<table>
<thead>
<tr>
<th>A. Name of Installation’s Legal Owner</th>
<th>B. Type of Ownership (enter code)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DOE JOSEPHINE</td>
<td>P</td>
</tr>
</tbody>
</table>

VI. **Type of Regulated Waste Activity (Mark ‘X’ in the appropriate boxes. Refer to instructions.)**

A. **Hazardous Waste Activity**

- [X] 1a. Generator
- [ ] 1b. Less than 1,000 kg/mo.
- [ ] 1c. Other

B. **Used Oil Fuel Activities**

- [ ] 6. Off-Specification Used Oil Fuel
  - [ ] a. Generator Marketing to Burner
  - [ ] b. Other Marketer
  - [ ] c. Burner

- [ ] 7. Specification Used Oil Fuel Marker to On site Burner
  - [ ] a. Generator Marketing to Burner
  - [ ] b. Other Marketer
  - [ ] c. Burner

VII. **Waste Fuel Burning: Type of Combustion Device**

- [ ] A. Utility Boiler
- [ ] B. Industrial Boiler
- [ ] C. Industrial Furnace

VIII. **Modes of Transportation**

- [ ] A. Air
- [ ] B. Rail
- [ ] C. Highway
- [ ] D. Water
- [ ] E. Other (specify)

IX. **First or Subsequent Notification**

Mark ‘X’ in the appropriate box to indicate whether this is your installation’s first notification of hazardous waste activity or a subsequent notification. If this is not your first notification, enter your installation’s EPA ID Number in the space provided below.

- [X] A. First Notification
- [ ] B. Subsequent Notification (complete item C)

<table>
<thead>
<tr>
<th>C. Installation’s EPA ID Number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

*Instructions for filling out this form are provided, along with the form, by EPA. Additional information is found in Appendix B of this handbook.*
**FIGURE 1**

**SAMPLE "NOTIFICATION OF HAZARDOUS WASTE ACTIVITY" FORM*** (Continued)

<table>
<thead>
<tr>
<th>ID — For Official Use Only</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>T/A C.</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>

**Note:** Instructions for filling out this form are provided, along with the form, by EPA. Additional information is found in Appendix B of this handbook.

---

**X. Description of Hazardous Wastes**

<table>
<thead>
<tr>
<th>Column</th>
<th>Column</th>
<th>Column</th>
<th>Column</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>5</td>
<td>6</td>
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</tr>
<tr>
<td>9</td>
<td>10</td>
<td>11</td>
<td>12</td>
</tr>
</tbody>
</table>

**A. Hazardous Wastes from Nonspecific Sources.** Enter the four-digit number from 40 CFR Part 261.31 for each listed hazardous waste from nonspecific sources your installation handles. Use additional sheets if necessary.

<table>
<thead>
<tr>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FO8</strong></td>
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<td><strong>F01</strong></td>
<td><strong>F01</strong></td>
</tr>
<tr>
<td><strong>7</strong></td>
<td><strong>8</strong></td>
<td><strong>9</strong></td>
<td><strong>10</strong></td>
</tr>
<tr>
<td><strong>11</strong></td>
<td><strong>12</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**B. Hazardous Wastes from Specific Sources.** Enter the four-digit number from 40 CFR Part 261.32 for each listed hazardous waste from specific sources your installation handles. Use additional sheets if necessary.

<table>
<thead>
<tr>
<th>13</th>
<th>14</th>
<th>15</th>
<th>16</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>KB9</strong></td>
<td><strong>KB9</strong></td>
<td><strong>KB9</strong></td>
<td><strong>KB9</strong></td>
</tr>
<tr>
<td><strong>19</strong></td>
<td><strong>20</strong></td>
<td><strong>21</strong></td>
<td><strong>22</strong></td>
</tr>
<tr>
<td><strong>23</strong></td>
<td><strong>24</strong></td>
<td><strong>25</strong></td>
<td><strong>26</strong></td>
</tr>
<tr>
<td><strong>27</strong></td>
<td><strong>28</strong></td>
<td><strong>29</strong></td>
<td><strong>30</strong></td>
</tr>
</tbody>
</table>

**C. Commercial Chemical Product Hazardous Wastes.** Enter the four-digit number from 40 CFR Part 261.33 for each chemical substance your installation handles which may be a hazardous waste. Use additional sheets if necessary.

<table>
<thead>
<tr>
<th>31</th>
<th>32</th>
<th>33</th>
<th>34</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>37</strong></td>
<td><strong>38</strong></td>
<td><strong>39</strong></td>
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</tr>
<tr>
<td><strong>43</strong></td>
<td><strong>44</strong></td>
<td><strong>45</strong></td>
<td><strong>46</strong></td>
</tr>
<tr>
<td><strong>47</strong></td>
<td><strong>48</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**D. Listed Infectious Wastes.** Enter the four-digit number from 40 CFR Part 261.34 for each infectious waste from hospitals, veterinary hospitals, or medical and research laboratories your installation handles. Use additional sheets if necessary.

<table>
<thead>
<tr>
<th>49</th>
<th>50</th>
<th>51</th>
<th>52</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>56</strong></td>
<td><strong>57</strong></td>
<td><strong>58</strong></td>
<td><strong>59</strong></td>
</tr>
<tr>
<td><strong>60</strong></td>
<td><strong>61</strong></td>
<td><strong>62</strong></td>
<td><strong>63</strong></td>
</tr>
</tbody>
</table>

**E. Characteristics of Nonlisted Hazardous Wastes.** Mark "X" in the boxes corresponding to the characteristics of nonlisted hazardous wastes your installation handles. (See 40 CFR Parts 261.21 — 261.24)

- **1. Ignitable**
- **2. Corrosive**
- **3. Reactive**
- **4. Toxic**

**XI. Certification**

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

**Signature**

*JOSEPHINE DOE OWNER 6/1/86*

**EPA Form 8700-12 (Rev. 11/85) Reverse**
CHAPTER 4

MANAGING HAZARDOUS WASTE ON-SITE

THE THREE MOST IMPORTANT THINGS YOU SHOULD KNOW ABOUT MANAGING YOUR HAZARDOUS WASTES ON-SITE

1. Comply with storage time, quantity, and handling requirements for containers and tanks.

2. Obtain a storage, treatment, or disposal permit if you store, treat, or dispose of your hazardous waste on-site in a manner requiring a permit.

3. Take adequate precautions to prevent accidents, and be prepared to handle them properly in the event that they do occur.

Storing Hazardous Waste On-Site

You may store no more than 6000 kg of hazardous waste on your site for up to 180 days, or for up to 270 days if the waste must be shipped to a treatment, storage, or disposal facility that is located over 200 miles away. If you exceed these time or quantity limits, you will be considered a storage facility and you must obtain a storage permit (see below) and meet all of the RCRA storage requirements. These time limits on storage are longer than the 90 days allowed generators of 1000 kg/mo or more. You are allowed to store your waste for as long as 180 or 270 days so that you will have time to accumulate enough hazardous waste to ship it off-site for treatment or disposal economically.

You can store hazardous waste in 55-gallon drums, tanks, or other containers suitable for the type of waste generated if you follow certain common sense rules that are meant to protect human health and the environment, and reduce the likelihood of damages or injuries caused by leaks or spills of hazardous wastes.

- Keep containers in good condition, handle them carefully, and replace any leaking ones.
- Not store hazardous waste in a container if it may cause rupture, leaks, corrosion, or other failure.
- Keep containers closed except when you fill or empty them.
- Inspect the container for leaks or corrosion every week.
- Make sure that if you are storing ignitable or reactive wastes, containers are placed as far as possible from your facility property line to create a buffer zone.
- NEVER store wastes in the same container that could react together to cause fires, leaks, or other releases.
- Make sure that the stored waste is taken off-site or treated on-site within 180 (or 270) days.

If you store your waste in tanks, you must follow similar common sense rules:

- Do not store hazardous waste in a tank if it may cause rupture, leaks, corrosion, or otherwise cause the tank to fail.

If you store your hazardous waste in containers, you must:

- Clearly mark each container with the words "HAZARDOUS WASTE," and with the date you began to collect waste in that container.
- Keep a tank covered or provide at least two feet of freeboard (space at the top of the tank) in uncovered tanks.
- If your tanks have equipment that allow the waste to flow into them continuously, provide waste feed cutoff or bypass systems to stop the flow in case of problems.
- Inspect any monitoring or gauging systems on each operating day and inspect the tanks themselves for leaks or corrosion every week.
- Use the National Fire Protection Association's (NFPA) buffer zone requirements for tanks containing ignitable or reactive wastes. These requirements specify distances considered as safe buffer zones for various liquids based on the characteristics of all combustible and flammable liquids. Call your local fire department or EPA regional office (see Appendix A) if you need help.
- Make sure that the stored waste is taken off-site or treated on-site within 180 (or 270) days.

**Treating Hazardous Waste On-Site**

You may treat your hazardous wastes on your site without a special permit providing:

- You treat the accumulated hazardous waste within 180 (or 270) days.
- You comply with the container and tank regulations described above.
- You take steps to prepare for and prevent accidents as described below.

If you do not meet each of these requirements and you treat your hazardous wastes on your site, you must obtain a hazardous waste treatment permit as described below.

**Disposing of Hazardous Waste On-Site**

You may not dispose of your hazardous waste on your site unless you have obtained a disposal permit as described below. Under certain circumstances, it may be legal to dispose of certain types of hazardous waste on your site without a permit: Farmers may dispose of their own waste pesticide provided they triple rinse the empty pesticide container and dispose of the pesticide residue on their own farm in a manner consistent with the instructions on the pesticide label. Even if you are not a farmer, you may be allowed to dispose of certain hazardous wastes by discharging them directly into your sewer drain. However, this is not considered good management practice and in many communities it may be illegal. For more information concerning wastes which may be disposed of in this manner, contact your local wastewater or sewage treatment office or your state hazardous waste management agency (see Appendix A).

**Obtaining a Permit to Store, Treat, or Dispose of Hazardous Waste On-Site**

If you store, treat, or dispose of your hazardous waste on-site in any manner other than those permissible ones described above, you must obtain a permit. Obtaining a permit to store, treat, or dispose of your hazardous wastes on your site can be a costly and time consuming process. The process is described in Title 40 of the Code of Federal Regulations (40 CFR) Part 270. To obtain such a permit you must:

- Notify EPA or your state of your hazardous waste activity.
- Complete Part A of the permit application.
- Comply with the interim status standards as described in 40 CFR Part 265.
- Complete Part B of the permit application.
- Comply with the standards described in 40 CFR Parts 264 and 266.
If you are not sure whether you need such a permit, or if you are interested in finding out more about it, call your state hazardous waste management agency or EPA regional office (see Appendix A) for help.

Preparing for and Preventing Accidents
Whenever you generate hazardous waste and store it on-site, you must take the precautions and steps necessary to prevent any sudden or accidental release to the environment. This means that you must carefully operate and maintain your facility to reduce the possibility of fire, explosion, or release of hazardous waste. Your facility must have appropriate types of emergency communication and fire equipment for the kinds of waste handled at your site. You must also attempt to make arrangements with local fire, police, or hospital officials as needed to ensure that they will be able to respond to any potential emergencies that could arise. Some of the steps you may need to take to prepare for emergencies at your facility include:

- Installing and maintaining emergency equipment such as an alarm, a telephone or a two-way portable radio, fire extinguishers (using water, foam, inert gas, or dry chemicals as appropriate to your waste type), hoses, automatic sprinklers, or sprays in your plant so that it is immediately available to your employees if there is an emergency.
- Providing enough room for emergency equipment and response teams to get into any area in your facility in the event of an emergency.
- Writing to local fire, police, and hospital officials or state or local emergency response teams explaining the types of wastes you handle and asking for their cooperation and assistance in handling emergency situations.

Planning for Emergencies
A contingency plan is a plan that attempts to look ahead and prepare for any accidents that could possibly occur. It can be thought of as a set of answers to a series of "what if" questions. For example: "What if there is a fire in the area where hazardous waste is stored?" or "What if I have a spill of hazardous waste or one of my containers leaks?" Emergency procedures are the steps you should follow if you have an emergency, that is, if one of the "contingencies" or "what ifs" occurs. While a specific written contingency plan is not required, it may be a good idea to make a list of these questions and answer them on paper. This also may be helpful in informing your employees about their responsibilities in the event of an emergency.

If you have an emergency in your plant:
1. In the event of a fire, call the fire department or attempt to extinguish it using the appropriate type of fire extinguisher.
2. In the event of a spill, contain the flow of hazardous waste to the extent possible and notify the National Response Center. The Center operates a 24-hour toll free number: 800-424-8802, or in Washington, D.C.: 426-2675. As soon as possible, clean up the hazardous waste and any contaminated materials or soil.
3. In the event of a fire, explosion, or other release, immediately notify the National Response Center as required by Superfund regulations. (Superfund is the law that deals with the cleanup of spills and leaks of hazardous waste at abandoned hazardous waste sites.)

Emergency phone numbers and locations of emergency equipment must be posted near telephones and all employees must know proper waste handling and emergency procedures. You must appoint an employee to act as emergency coordinator to ensure that emergency procedures are carried out properly.
out in the event an emergency arises. The responsibilities of the emergency coordinator are generally that he/she be available 24 hours a day (at the facility or by phone) and know whom to contact and what steps to follow in an emergency. For most small businesses, the owner or operator may already perform these functions. Thus, it is not intended nor is it likely that you will need to hire a new employee to fill this role.

It is important to avoid potential risks in this area. If you have a serious emergency and you have to call your local fire department or you have a spill that extends outside your plant or that could reach surface waters, IMMEDIATELY CALL THE NATIONAL RESPONSE CENTER (800-424-8802) AND GIVE THEM THE INFORMATION THEY ASK FOR. If you didn’t need to call, they will tell you so. BUT ANYONE WHO WAS SUPPOSED TO CALL AND DOES NOT IS SUBJECT TO A $10,000 FINE, A YEAR IN JAIL, OR BOTH. An owner or manager of a business who fails to report a release also may have to pay for the entire cost of repairing any damage, even if the facility was not the single or the main cause of the damage.
CHAPTER 5

SHIPPING HAZARDOUS WASTE OFF-SITE

THE THREE MOST IMPORTANT THINGS YOU SHOULD REMEMBER ABOUT SHIPPING YOUR HAZARDOUS WASTE OFF-SITE

1. Choose a hauler and facility which have EPA identification numbers.
2. Package and label your wastes for shipping.
3. Prepare a hazardous waste manifest.

Under federal regulations, if you are a 100-1000 kg/mo generator, you are allowed to accumulate your hazardous wastes on your premises without a permit for up to 180 days (or 270 days if you must ship it more than 200 miles) as long as you never accumulate more than 6000 kilograms. These limits are set so that a small business can accumulate enough waste to make shipping and disposal more economical.

Choosing a Hazardous Waste Hauler and Designated Waste Management Facility

Carefully choosing a hauler and designating a waste management facility is important. The hauler will be handling your wastes beyond your control while you are still responsible for their proper management. Similarly, the waste management facility will be the final destination of your hazardous waste for treatment, storage, or disposal. Before choosing a hauler or designating a facility, check with the following sources:

- Your friends and colleagues in business who may have used a specific hazardous waste hauler or designated facility in the past.
- Your trade association(s) which may keep a file on companies that handle hazardous wastes.
- Your Better Business Bureau or Chamber of Commerce to find out if any complaints have been registered against a hauler or facility.
- Your state hazardous waste management agency or EPA regional office, which will be able to tell you whether or not a company has a U.S. EPA Identification Number, and may know whether or not the company has had any problems.

After checking these sources, contact the hauler and designated hazardous waste management facility directly to verify that they have U.S. EPA Identification Numbers, and that they can and will handle your waste. Also make sure that they have the necessary permits and insurance, and that the hauler’s vehicles are in good condition. Checking sources and choosing a hauler and designated facility may take some time—try to begin checking well ahead of the time you will need to ship your waste. Careful selection is very important.

Preparing Your Hazardous Wastes for Shipment

When you prepare hazardous wastes for shipment, you must put the wastes in containers acceptable for transportation and make sure the containers are properly labeled. Your hauler should be able to assist you. If you need additional information, you may wish to consult the requirements for packaging and labeling hazardous wastes found in the Department of Transportation (DOT) regulations (49 CFR Part 172). To find out what these requirements are for your wastes, you should contact your state hazardous waste management agency for the name and telephone number of your state transportation agency. Your state transportation agency, your hauler, or your designated facility can help you understand the DOT requirements.
A hazardous waste manifest is a multicopy shipping document that you must fill out and use to accompany your hazardous waste shipments.\(^1\)

The manifest form is designed so that shipments of hazardous waste can be tracked from their point of generation to their final destination—the so-called "cradle-to-grave" system. The hazardous waste generator, the hauler, and the designated facility must each sign this document and keep a copy. The designated facility operator also must send a copy back to you, so that you can be sure that your shipment arrived. You must keep this copy, which will be signed by the hauler and designated facility, on file for three years.

If you do not receive a signed copy from the designated hazardous waste management facility within 30 days, it is a good idea for you to find out why and, if necessary, let the state or EPA know. **REMEMBER:** Just because you have shipped the hazardous waste off your site and it is no longer in your possession, your liability has not ended. You are potentially liable under Superfund for any mismanagement of your hazardous waste. The manifest will help you to track your waste during shipment and make sure it arrives at the proper destination.

You can obtain blank copies of the manifest from several sources. To determine which source you should use, use this system:

1. If the state to which you are shipping your waste has its own manifest, use that manifest form. Contact the hazardous waste management agency of that state (see Appendix A), your hauler, or the designated facility you intend to use for manifest forms.

2. If the state to which you are shipping your waste does not have its own manifest, use the manifest of the state in which your waste was generated. Contact your hauler or your state hazardous waste agency for blank forms.

3. If neither state requires a state-specific manifest, you may use the "general" Uniform Hazardous Waste Manifest—EPA Form 8700-22. Copies are available from some haulers and designated hazardous waste management facilities, or may be purchased from some commercial printers.

A sample copy of a hazardous waste manifest has been filled out for you in Figure 2. When you sign the certification in ITEM 16 you are personally confirming that:

- The manifest is complete and accurately describes the shipment.
- The shipment is ready for transport.
- You have considered whether, given your budget, your waste management arrangements are the best to reduce the amount and hazardous nature of your wastes.

States, haulers, recyclers, and designated facilities may require additional information; check with them before you prepare a hazardous waste shipment. Your hazardous waste hauler often will be the best source for packaging and shipping information and will help in completing the manifest. EPA has also prepared some industry-specific information to help you in completing the manifest. This industry-specific information is available from EPA Regional Offices and a number of trade associations. If you have any trouble obtaining, filling out, or using the manifest, ask your hauler, your designated facility operator, or one of the contacts listed in Appendix A for help.

Federal regulations allow you to haul your hazardous waste to a designated facility yourself. You must, however, obtain an EPA transporter identification number and comply with applicable DOT requirements for packaging, labeling, mark-
**FIGURE 2**

SAMPLE "UNIFORM HAZARDOUS WASTE MANIFEST" FORM

Please print or type. (Form designed for use on site (12 point typewriter))

Form Approved OMB No. 2000-0450, Expiration 7-31-86

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Generator’s US EPA ID No.</td>
</tr>
<tr>
<td>2.</td>
<td>Manifest superseded by information in the shaded areas is not required by Federal law.</td>
</tr>
<tr>
<td>3.</td>
<td>General Name and Address of Generator (Name of Company)</td>
</tr>
<tr>
<td>4.</td>
<td>Generator’s Phone</td>
</tr>
<tr>
<td>5.</td>
<td>Transporter’s Company Name</td>
</tr>
<tr>
<td>6.</td>
<td>US EPA ID Number</td>
</tr>
<tr>
<td>7.</td>
<td>Designated Facility Name and Site Address</td>
</tr>
<tr>
<td>8.</td>
<td>US EPA ID Number</td>
</tr>
<tr>
<td>9.</td>
<td>State Generator’s ID</td>
</tr>
<tr>
<td>10.</td>
<td>State Transporter’s ID</td>
</tr>
<tr>
<td>11.</td>
<td>US DOT Description (Including Proper Shipping Name, Hazard Class, and ID Number)</td>
</tr>
<tr>
<td>12.</td>
<td>Total Quantity</td>
</tr>
<tr>
<td>13.</td>
<td>Type</td>
</tr>
<tr>
<td>14.</td>
<td>Containers</td>
</tr>
<tr>
<td>15.</td>
<td>Additional Descriptions for Materials Listed Above</td>
</tr>
<tr>
<td>16.</td>
<td>Special Handling Instructions and Additional Information</td>
</tr>
<tr>
<td>17.</td>
<td>Generator’s Certification</td>
</tr>
<tr>
<td>18.</td>
<td>Transportation Acknowledgement of Receipt of Materials</td>
</tr>
<tr>
<td>19.</td>
<td>Facility Owner or Operator Certification of receipt of hazardous materials covered by this manifest except as noted in Item 10</td>
</tr>
</tbody>
</table>

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*Information in the shaded areas is not required by Federal law, but this or other additional information may be required by your state.*
ing, and placarding your shipment. There are also financial responsibility and liability requirements under the Federal Motor Carrier Act, but you may be exempt from these if you:

1. Use a vehicle with a Gross Vehicle Weight Rating of less than 10,000 pounds (van or pick-up truck).
2. Transport your wastes for commerce within your state in non-bulk shipments (i.e., containers with capacities of less than 3,500 gallons).
3. Transport hazardous wastes which meet the “limited quantity exclusion” requirements of Section 172.101 of the DOT regulations.

If you decide to transport your own hazardous wastes, call your state hazardous waste management agency (See Appendix A) to find out what state regulations apply to you. Not all states will allow you to transport your own hazardous wastes. You should also note that if you have an accident during transport, you are responsible for the clean-up.
CHAPTER 6

“GOOD HOUSEKEEPING” AND A SAFE ENVIRONMENT

THE FOUR MOST IMPORTANT THINGS YOU SHOULD REMEMBER ABOUT MANAGING YOUR WASTES PROPERLY

1. Reduce the amount of your hazardous waste.
2. Conduct your own self-inspection.
3. Cooperate with state and local inspectors.
4. Call your state hazardous waste management agency or the U.S. EPA with your questions.

Good hazardous waste management can be thought of simply as using “good housekeeping” practices such as: using and reusing materials as much as possible; recycling or reclaiming waste; treating waste to reduce its hazards; or reducing the amount of waste you generate. To reduce the amount of waste you generate:

➤ Do not mix nonhazardous wastes with hazardous ones. For example, do not put nonhazardous cleaning agents or rags in the same container as a hazardous solvent or the entire contents becomes subject to the hazardous waste regulations.

➤ Avoid mixing several different hazardous wastes. Doing so may make recycling very difficult, if not impossible, or make disposal more expensive.

➤ Avoid spills or leaks of hazardous products. (The materials used to clean up such spills or leaks also will become hazardous.)

➤ Make sure the original containers of hazardous products are completely empty before you throw them away. Use ALL the product.

➤ Avoid using more of a hazardous product than you need. For example, use no more degreasing solvent or pesticide than you need to do the job. Also, do not throw away a container with unused solvent or pesticide in it.

Reducing your hazardous waste means saving money on raw materials and reducing the costs to your business for managing and disposing of your hazardous wastes.

Another aspect of “good housekeeping” is cooperating with inspection agencies and using a visit by an inspector as an opportunity to identify and correct problems. Accompanying state or local inspectors on a tour of your facility will enable you to ask any questions you may have and receive advice on more effective ways of handling your hazardous products and wastes. In addition, guiding the inspectors through your property and explaining your operations may help them to be more sensitive to the particular problems or needs of your business. Inspectors can also serve as a valuable source of information on recordkeeping, manifests, and safety requirements specific to your facility.

The best way to prepare for a visit from an inspector is to conduct your own self-inspection. This handbook can serve as a basic guide to developing a self-inspection checklist. Make sure you can answer correctly the following questions, and make sure you have met the requirements described in the handbook:

☑ Do you have some documentation on the AMOUNTS and KINDS of hazardous waste you generate and on how you determined that they are hazardous?

☑ Do you have a U.S. EPA IDENTIFICATION NUMBER?

☑ Do you SHIP waste OFF-SITE? If so, by which HAULER and to which DESIGNATED HAZARDOUS WASTE MANAGEMENT FACILITY?

☑ Do you have copies of MANIFESTS used to ship your hazardous waste off-site? Are they filled out correctly? Have they been signed by the designated facility?
Is your hazardous waste stored in the PROPER CONTAINERS?
Are the containers properly DATED and MARKED?
Have you designated an EMERGENCY COORDINATOR?
Have you posted EMERGENCY TELEPHONE NUMBERS and the location of EMERGENCY EQUIPMENT?
Are your EMPLOYEES thoroughly FAMILIAR with proper waste handling and emergency procedures?
Do you understand when you may need to contact the NATIONAL RESPONSE CENTER?

Remember: If you are still uncertain about how to handle your hazardous waste, or have any questions concerning the rules for 100-1000 kg/mo generators, there are several sources listed in Appendix A that you can contact for answers. Taking responsibility for proper handling of hazardous waste will not only ensure a safer environment and workplace for everyone, but will save your business money. So write or call your state hazardous waste management agency or the U.S. EPA with your questions today.
APPENDIX A

EPA AND STATE HAZARDOUS WASTE CONTACTS
FOR ASSISTANCE

RCRA/Superfund Hotline
1-800-424-9346
(In Washington, D.C.: 382-3000)

EPA Small Business Ombudsman
Hotline 1-800-368-5888

National Response Center
1-800-424-8802
(In Washington, D.C.: 426-2675)

Regional Contacts

Regions
4 — Alabama
10 — Alaska
9 — Arizona
6 — Arkansas
9 — California
8 — Colorado
1 — Connecticut
3 — Delaware
3 — D.C.
4 — Florida
4 — Georgia
9 — Hawaii
10 — Idaho
5 — Illinois

Regions
5 — Indiana
7 — Iowa
7 — Kansas
4 — Kentucky
6 — Louisiana
1 — Maine
3 — Maryland
1 — Massachusetts
5 — Michigan
5 — Minnesota
4 — Mississippi
7 — Missouri
8 — Montana
7 — Nebraska

Regions
9 — Nevada
1 — New Hampshire
2 — New Jersey
6 — New Mexico
2 — New York
4 — North Carolina
8 — North Dakota
5 — Ohio
6 — Oklahoma
10 — Oregon
3 — Pennsylvania
1 — Rhode Island
4 — South Carolina
8 — South Dakota

Regions
4 — Tennessee
6 — Texas
8 — Utah
1 — Vermont
3 — Virginia
10 — Washington
3 — West Virginia
5 — Wisconsin
8 — Wyoming
9 — American Samoa
9 — Guam
2 — Puerto Rico
2 — Virgin Islands
## U.S. EPA REGIONAL OFFICES

<table>
<thead>
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<th>Region</th>
<th>Branch/Division</th>
<th>Address</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Region I</td>
<td>State Waste Programs Branch</td>
<td>JFK Federal Building, Boston, Massachusetts 02203</td>
<td>(617) 223-3468</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont</td>
<td></td>
</tr>
<tr>
<td>Region II</td>
<td>Air and Waste Management Division</td>
<td>26 Federal Plaza, New York, New York 10278</td>
<td>(212) 264-5175</td>
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<td>New Jersey, New York, Puerto Rico, Virgin Islands</td>
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<td>Region III</td>
<td>Waste Management Branch</td>
<td>841 Chestnut Street, Philadelphia, Pennsylvania 19107</td>
<td>(215) 597-9336</td>
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<td></td>
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<td>Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia</td>
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<td>Hazardous Waste Management Division</td>
<td>345 Courtland Street, N.E., Atlanta, Georgia 30365</td>
<td>(404) 347-3016</td>
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<td></td>
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<td>Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee</td>
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<td>Region V</td>
<td>RCRA Activities</td>
<td>220 South Dearborn Street, Chicago, Illinois 60604</td>
<td>(312) 333-2000</td>
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<td>1201 Elm Street, Dallas, Texas 75270</td>
<td>(214) 767-2600</td>
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<td>Arkansas, Louisiana, New Mexico, Oklahoma, Texas</td>
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<tr>
<td>Region VII</td>
<td>RCRA Branch</td>
<td>726 Minnesota Avenue, Kansas City, Kansas 66101</td>
<td>(913) 236-2500</td>
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<td>Iowa, Kansas, Missouri, Nebraska</td>
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<tr>
<td>Region VIII</td>
<td>Waste Management Division (6HWM-ON)</td>
<td>One Denver Place, 999 18th Street, Suite 1300, Denver, Colorado 80202-2413</td>
<td>(303) 293-1502</td>
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<td>Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming</td>
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<tr>
<td>Region IX</td>
<td>Toxics and Waste Management Division</td>
<td>215 Fremont Street, San Francisco, California 94105</td>
<td>(415) 974-7472</td>
</tr>
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<td>Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territories of the Pacific</td>
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<tr>
<td>Region X</td>
<td>Waste Management Branch—MS-530</td>
<td>1200 Sixth Avenue, Seattle, Washington 98101</td>
<td>(206) 442-2777</td>
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<tr>
<td></td>
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<td>Alaska, Idaho, Oregon, Washington</td>
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### APPENDIX A

#### STATE HAZARDOUS WASTE MANAGEMENT AGENCIES

<table>
<thead>
<tr>
<th>State</th>
<th>Agency/Mailing Address</th>
<th>City/Town</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td>Alabama Department of Environmental Management</td>
<td>Montgomery</td>
<td>(205) 271-7750</td>
</tr>
<tr>
<td>Alaska</td>
<td>Department of Environmental Conservation</td>
<td>Juneau, Alaska</td>
<td>(907) 465-2666</td>
</tr>
<tr>
<td>American Samoa</td>
<td>Environmental Quality Commission</td>
<td>Pago Pago, American Samoa</td>
<td>(684) 663-4116</td>
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<tr>
<td>Arizona</td>
<td>Dept. of Health Services Office of Waste &amp; Water Quality</td>
<td>Phoenix, Ariz.</td>
<td>602-2572300</td>
</tr>
<tr>
<td>Arkansas</td>
<td>Department of Pollution Control and Ecology</td>
<td>Little Rock, Arkansas</td>
<td>501-562-7444</td>
</tr>
<tr>
<td>California</td>
<td>Department of Health Services</td>
<td>Sacramento</td>
<td>(916) 324-1826</td>
</tr>
<tr>
<td>Colorado</td>
<td>Colorado Department of Health Waste Management Division</td>
<td>Denver, Colorado</td>
<td>(303) 331-4830</td>
</tr>
<tr>
<td>Connecticut</td>
<td>Department of Environmental Protection</td>
<td>Hartford, Connecticut</td>
<td>(203) 566-8843, 8844</td>
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<tr>
<td>Delaware</td>
<td>Department of Natural Resources and Environmental Control</td>
<td>Dover</td>
<td>(302) 736-3689</td>
</tr>
<tr>
<td>District of Columbia</td>
<td>Department of Consumer and Regulatory Affairs</td>
<td>Washington, D.C.</td>
<td>(202) 767-8414</td>
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<tr>
<td>Florida</td>
<td>Department of Environmental Regulation</td>
<td>Tallahassee</td>
<td>(800) 334-2373</td>
</tr>
<tr>
<td>Georgia</td>
<td>Georgia Environmental Protection Division</td>
<td>Atlanta</td>
<td>(404) 488-0300</td>
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<tr>
<td>Guam</td>
<td>Guam Environmental Protection Agency</td>
<td>Agana, Guam</td>
<td>(671) 644-67579</td>
</tr>
<tr>
<td>Hawaii</td>
<td>Department of Health Environmental Health Division</td>
<td>Honolulu</td>
<td>(808) 546-4383</td>
</tr>
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</table>

### States Appendix

- **Alabama**: Department of Environmental Management, Land Division, 1751 Federal Drive, Montgomery, AL 36130, (205) 271-7750.
- **Alaska**: Department of Environmental Conservation, P.O. Box 0, Juneau, AK 99811, Program Manager: (907) 465-2666.
- **Arkansas**: Department of Pollution Control and Ecology, Hazardous Waste Division, P.O. Box 9583, 8001 National Drive, Little Rock, AR 72219, (501) 562-7444.
- **California**: Department of Health Services, Toxic Substances Control Division, 714 P Street, Room 1253, Sacramento, CA 95814, (916) 324-1826.
- **Colorado**: Colorado Department of Health Waste Management Division, 4210 E. 11th Avenue, Denver, CO 80220, (303) 331-4830.
- **Connecticut**: Department of Environmental Protection, Hazardous Waste Management Section, State Office Building, 165 Capitol Avenue, Hartford, CT 06106, (203) 566-8843, 8844.
- **Delaware**: Department of Natural Resources and Environmental Control Waste Management Section, P.O. Box 1401, Dover, DE 19903, (302) 736-3689.
- **District of Columbia**: Department of Consumer and Regulatory Affairs, Pesticides and Hazardous Waste Materials Division, Room 114, 5010 Overlook Avenue, S.W., Washington, D.C. 20032, (202) 767-8414.
- **Florida**: Department of Environmental Regulation, Solid and Hazardous Waste Section, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, FL 32301, RE: SQG's, (904) 488-0300.
- **Georgia**: Georgia Environmental Protection Division, Hazardous Waste Management Program, Land Protection Branch, Floyd Towers East, Suite 1154, 205 Butler Street, S.E., Atlanta, GA 30334, (404) 656-2833, Toll Free: (800) 334-2373.
- **Guam**: Guam Environmental Protection Agency, P.O. Box 2999, Agana, Guam 96910, Overseas Operator, (Commercial Call 671) 646-7579.
- **Hawaii**: Department of Health Environmental Health Division, P.O. Box 3378, Honolulu, HI 96801, (808) 548-4383.
## APPENDIX A

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<th>State</th>
<th>Department</th>
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<td>IDAHO</td>
<td>Department of Health and Welfare</td>
<td>Bureau of Hazardous Materials</td>
<td>(208) 334-5379</td>
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<tr>
<td></td>
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<td>450 West State Street, Boise, Idaho 83720</td>
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<td>ILLINOIS</td>
<td>Environmental Protection Agency</td>
<td>Division of Land Pollution Control</td>
<td>(217) 782-6761</td>
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<td></td>
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<td>2200 Churchill Road, #34, Springfield, IL</td>
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<td>Department of Environmental Management</td>
<td>Office of Solid and Hazardous Waste</td>
<td>(317) 322-4535</td>
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<td></td>
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<td>105 South Meridian, Indianapolis, IN 46225</td>
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<td>IOWA</td>
<td>U.S. EPA Region VII</td>
<td>Hazardous Materials Branch</td>
<td>(800) 223-0425</td>
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<td></td>
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<td>726 Minnesota Avenue, Kansas City, KS 66101</td>
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<td>KANSAS</td>
<td>Department of Health and Environment</td>
<td>Bureau of Waste Management</td>
<td>(402) 471-2186</td>
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<td>18 Reilly Road, Topeka, KS 66620</td>
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<td>913-296-1590</td>
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<td>KENTUCKY</td>
<td>Natural Resources and Environmental Protection</td>
<td>Cabinet</td>
<td>(502) 564-6716</td>
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<td>Department of Waste Management</td>
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<td>LOUISIANA</td>
<td>Department of Environmental Quality</td>
<td>Hazardous Waste Division</td>
<td>(207) 289-2651</td>
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<td>MARYLAND</td>
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<td>MASSACHUSETTS</td>
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<td>P.O. Box 176, Jefferson City, MO 65102</td>
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<td>MONTANA</td>
<td>Department of Health and Environmental Sciences</td>
<td>Solid and Hazardous Waste Bureau</td>
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<td>Capitol Complex, Carson City, NV 89710</td>
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<td>NEVADA</td>
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<td>Waste Management Program</td>
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<td>Capitol Complex</td>
<td>(702) 385-4670</td>
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<td>NEW HAMPSHIRE</td>
<td>Department of Health and Human Services</td>
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<tr>
<td><strong>NEW JERSEY</strong></td>
<td>Department of Environmental Protection Division of Waste Management 32 East Hanover Street, CN-028 Trenton, New Jersey (609) 292-8341</td>
</tr>
<tr>
<td><strong>NEW MEXICO</strong></td>
<td>Environmental Improvement Div. Ground Water &amp; Hazardous Waste Hazardous Waste Section 1190 Saint Francis Dr. Santa Fe, New Mexico 87503</td>
</tr>
<tr>
<td><strong>NEW YORK</strong></td>
<td>Department of Environmental Conservation Bureau of Hazardous Waste Operations 50 Wolf Road, Room 209 Albany, New York 12233 (518) 457-0530 SQG Hotline: (800) 631-0666</td>
</tr>
<tr>
<td><strong>NORTHERN MARIANA ISLANDS, COMMONWEALTH OF</strong></td>
<td>Department of Environmental and Health Services Division of Environmental Quality P.O. Box 1304 Saipan, Commonwealth of Northern Mariana Islands 96950 Overseas call (670) 234-6984</td>
</tr>
<tr>
<td><strong>OHIO</strong></td>
<td>Ohio EPA P.O. Box 1049 1800 Water Mark Dr. Columbus, Oh. 43266-0149 614-644-2917</td>
</tr>
<tr>
<td><strong>OKLAHOMA</strong></td>
<td>Waste Management Service Oklahoma State Department of Health P.O. Box 53551 Oklahoma City, Oklahoma 73152 (405) 271-5338</td>
</tr>
<tr>
<td><strong>OREGON</strong></td>
<td>Hazardous and Solid Waste Division 811 S.W. 6th Avenue Portland, Ore. 97204 503-229-5913 800-455-4511</td>
</tr>
<tr>
<td><strong>PENNSYLVANIA</strong></td>
<td>Bureau of Waste Management Division of Compliance Monitoring P.O. Box 2063 Harrisburg, Pennsylvania 17120 (717) 787-6239</td>
</tr>
<tr>
<td><strong>PUERTO RICO</strong></td>
<td>Environmental Quality Board P.O. Box 11488 Santurce, Puerto Rico 00910-1488 (809) 722-8184 or EPA Region II Air and Waste Management Division 26 Federal Plaza New York, New York 10278 (212) 264-5175</td>
</tr>
<tr>
<td><strong>RHODE ISLAND</strong></td>
<td>Department of Environmental Management Division of Air and Hazardous Materials Room 204, Cannon Building Providence, R.I. 02908 (401) 277-2797</td>
</tr>
<tr>
<td><strong>SOUTH CAROLINA</strong></td>
<td>Department of Health and Environmental Control Bureau of Solid and Hazardous Waste Management 2600 Bull Street Columbia, South Carolina 29201 (803) 734-5200</td>
</tr>
<tr>
<td><strong>SOUTH DAKOTA</strong></td>
<td>Department of Water and Natural Resources Office of Air Quality and Solid Waste Foss Building, Room 217 Pierre, South Dakota 57501 (605) 773-3152</td>
</tr>
<tr>
<td><strong>TENNESSEE</strong></td>
<td>Division of Solid Waste Management Tennessee Department of Public Health 701 Broadway Nashville, Tennessee 37219-5403 (615) 741-3424</td>
</tr>
<tr>
<td><strong>TEXAS</strong></td>
<td>Texas Water Commission Hazardous and Solid Waste Division Attn: Program Support Section 1700 North Congress Austin, Texas 78711 (512) 463-7761</td>
</tr>
<tr>
<td><strong>UTAH</strong></td>
<td>Department of Health Bureau of Solid and Hazardous Waste Management P.O. Box 16700 Salt Lake City, Utah 84116-0700 (801) 538-6170</td>
</tr>
</tbody>
</table>


APPENDIX A

VERMONT
Agency of Environmental Conservation
103 South Main Street
Waterbury, Vermont 05676
(802) 244-8702

VIRGIN ISLANDS
Department of Conservation and Cultural Affairs
P.O. Box 4399
Charlotte Amalie, St. Thomas
Virgin Islands 00801
(809) 774-3320

- or -
EPA Region II
Air and Waste Management Division
26 Federal Plaza
New York, New York 10278
(212) 264-5175

VIRGINIA
Department of Health
Division of Solid and Hazardous Waste Management
Monroe Building, 11th Floor
101 North 14th Street
Richmond, Virginia 23219
(804) 225-2667
Hazardous Waste Hotline:
(800) 552-2075.

WASHINGTON
Department of Ecology
Solid and Hazardous Waste Program
Mail Stop PV-11
Olympia, Washington 98504-8711
(206) 459-6322
In-State: 1-800-633-7585

WISCONSIN
Department of Natural Resources
Bureau of Solid Waste Management
P.O. Box 7921
Madison, Wisconsin 53707
(608) 266-1327

WYOMING
Department of Environmental Quality
Solid Waste Management Program
122 West 25th Street
Cheyenne, Wyoming 82002
(307) 777-7752

- or -
EPA Region VIII
Waste Management Division
(88HM-ON)
One Denver Place
999 18th Street
Suite 1300
Denver, Colorado 80202-2413
(303) 293-1302

WEST VIRGINIA
Division of Water Resources
Solid and Hazardous Waste/ Ground Water Branch
1201 Greenbrier Street
Charleston, West Virginia 25311
304-348-5935
The Environmental Protection Agency recognizes that generators of small quantities of hazardous waste, many of which are small businesses, may not be familiar with the manner in which hazardous waste materials are identified. This Appendix has been assembled to aid 100-1000 kg/mo small quantity generators in determining the EPA Hazardous Waste Numbers for their wastes. These numbers are needed to complete the "Notification of Hazardous Waste Activity," Form 8700-12.

This Appendix contains lists of EPA Hazardous Waste Numbers for each waste stream identified in Table 2 in Chapter 1 of the handbook. Note that acutely hazardous wastes are identified with an asterisk (*).

To Use This Appendix

1. Locate your business type in Table 2 in Chapter 1. This will help you to identify the waste streams common to your activities.
2. Find each of the waste streams that you identified in Table 2 in the more detailed descriptions in this Appendix. Review the more detailed descriptions of typical wastes to determine which waste streams actually result from your activities.
3. If you determine that you actually do generate a particular waste stream, report the four-digit EPA Hazardous Waste Number in Item X of Form 8700-12. "Notification of Hazardous Waste Activity."

The specific instructions for completing Item X (Description of Hazardous Wastes) of the notification form are included in the notification package. You should note, however, that specific EPA Hazardous Waste Numbers beginning with:
- "F" should be entered in Item X, Section A.
- "K" should be entered in Item X, Section B.
- "P" or "U" should be entered in Item X, Section C.
- "D" should be entered in Item X, Section E.

The industries and waste streams described here do not provide a comprehensive list, but rather serve as a guide to potential small quantity generators in determining which of their wastes, if any, are hazardous. Except for the pesticide and wood preserving categories, this Appendix does not include EPA Hazardous Waste Numbers for commercial chemical products that are hazardous when discarded unused. These chemicals and their EPA Hazardous Waste Numbers are listed in Title 40 of the Code of Federal Regulations (40 CFR) in Section 261.33.

If the specific EPA Hazardous Waste Number that should be applied to your waste stream is unclear, please refer to 40 CFR Part 261, reprinted in the Notification Form 8700-12 package. In those cases where more than one EPA Hazardous Waste Number is applicable, all should be used. If you have any questions, or if you are unable to determine the proper EPA Hazardous Waste Numbers for your wastes, contact your state hazardous waste management agency, or the RCRA/Superfund Hotline (see Appendix A).

Solvents:
Solvents, spent solvents, solvent mixtures, or solvent still bottoms are often hazardous. This includes solvents used in degreasing (identified as F001) and paint brush cleaning and distillation residues from reclamation. The following are some commonly used hazardous solvents (also see ignitable wastes for other hazardous solvents, and 40 CFR 261.31 for most listed hazardous waste solvents):

- Benzene
- Carbon Disulfide
- Carbon Tetrachloride
- Chlorobenzene
- Cresols
- Cresylic Acid
- O-Dichlorobenzene
- Ethanol
- 2-Ethoxyethanol
- Ethylene Dichloride
- Isobutanol
Isopropanol
Kerosene
Methyl Ethyl Ketone
Methylene Chloride
Naphtha
Nitrobenzene
2-Nitropropane
Petroleum Solvents
(Flashpoint less than 140°F)
Pyridine
1,1,1-Trichloroethane
1,1,2-Trichloroethane
Tetrachloroethylene
(Perchloroethylene)
Toluene
Trichloroethylene
Trichlorofluoromethane
Trichlorotrifluoroethane
(Valclene)
White Spirits

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<td></td>
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</tr>
<tr>
<td>Nitric Acid</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oleum</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Perchloric Acid</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Phosphoric Acid</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Potassium Hydroxide</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sodium Hydroxide</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sulfuric Acid</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Dry Cleaning Filtration Residues:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cooked powder residue (perchloroethylene plants only), still residues, and spent cartridge filters containing perchloroethylene or valclene are hazardous and have the EPA Hazardous Waste Number F002.</td>
</tr>
<tr>
<td>Still residues containing petroleum solvents with a flashpoint less than 140°F are considered hazardous and have the EPA Hazardous Waste Number D001.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Heavy Metals/Inorganics:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heavy metals and other inorganic waste materials exhibit the characteristic of EP Toxicity and are considered hazardous if the extract from a representative sample of the waste has any of the specific constituent concentrations as shown in 40 CFR 261.24, Table 1. This may include dusts, solutions, wastewater treatment sludges, paint wastes, waste inks, and other such materials which contain heavy metals/inorganics (note that wastewater treatment sludges from electroplating operations are identified as F006). The following are EP Toxic:</td>
</tr>
<tr>
<td>Arsenic</td>
</tr>
<tr>
<td>Barium</td>
</tr>
<tr>
<td>Cadmium</td>
</tr>
<tr>
<td>Chromium</td>
</tr>
<tr>
<td>Lead</td>
</tr>
<tr>
<td>Mercury</td>
</tr>
<tr>
<td>Selenium</td>
</tr>
<tr>
<td>Silver</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Ignitable Wastes:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ignitable wastes include any liquids that have a flashpoint less than 140°F, any non-liquids that are capable of causing a fire through friction, absorption of moisture, or spontaneous chemical change, or any ignitable compressed gas as described in 49 CFR 173.300 (for a complete</td>
</tr>
</tbody>
</table>
description of ignitable wastes, see 40 CFR 261.21, Characteristic of ignitability). Examples are spent solvents (see also solvents), solvent still bottoms, ignitable paint wastes (paint removers, brush cleaners and stripping agents), epoxy resins and adhesives (epoxies, rubber cements and marine glues), and waste inks containing flammable solvents. Unless otherwise specified, all ignitable wastes have the EPA Hazardous Waste Number of D001.

Some commonly used ignitable compounds are:

<table>
<thead>
<tr>
<th>Compound</th>
<th>EPA Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acetone</td>
<td>F003</td>
</tr>
<tr>
<td>Benzene</td>
<td>F005</td>
</tr>
<tr>
<td>n-Butyl Alcohol</td>
<td>F003</td>
</tr>
<tr>
<td>Chlorobenzene</td>
<td>F002</td>
</tr>
<tr>
<td>Cyclohexanone</td>
<td>F003</td>
</tr>
<tr>
<td>Ethyl Acetate</td>
<td>F003</td>
</tr>
<tr>
<td>Ethylbenzene</td>
<td>F003</td>
</tr>
<tr>
<td>Ethyl Ether</td>
<td>F003</td>
</tr>
<tr>
<td>Ethylene Dichloride</td>
<td>D001</td>
</tr>
<tr>
<td>Methanol</td>
<td>F003</td>
</tr>
<tr>
<td>Methyl Isobutyl Ketone</td>
<td>F003</td>
</tr>
<tr>
<td>Petroleum Distillates</td>
<td>D001</td>
</tr>
<tr>
<td>Xylene</td>
<td>F003</td>
</tr>
</tbody>
</table>

**Ink Sludges Containing Chromium and Lead:**

This includes solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead. All ink sludges have the EPA Hazardous Waste Number K086.

**Lead-Acid Batteries:**

Used lead-acid batteries should be reported on the notification form only if they are not recycled. Used lead-acid batteries that are recycled do not need to be counted in determining the quantity of waste that you generate per month, nor do they require a hazardous waste manifest when shipped off your premises. (Note: Special requirements do apply if you recycle your batteries on your own premises—see 40 CFR Part 266.)

- Lead Dross: D008
- Spent Acids: D002
- Lead-Acid Batteries: D008

**Pesticides:**

The pesticides listed below are hazardous. Wastes marked with an asterisk (*) have been designated acutely hazardous. For a more complete listing, see 40 CFR 261.32 and 261.33 for specific listed pesticides, and other wastes, wastewaters, sludges, and by-products from pesticide formulators. (Note that while many of these pesticides are no longer in common use, they are included here for those cases where they may be found in storage.)

<table>
<thead>
<tr>
<th>Pesticide</th>
<th>EPA Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>* Aldicarb</td>
<td>P070</td>
</tr>
<tr>
<td>* Aldrin</td>
<td>P004</td>
</tr>
<tr>
<td>Amitrole</td>
<td>U011</td>
</tr>
<tr>
<td>* Arsenic Pentoxide</td>
<td>P011</td>
</tr>
<tr>
<td>* Arsenic Trioxide</td>
<td>P012</td>
</tr>
<tr>
<td>Cacodylic Acid</td>
<td>U136</td>
</tr>
<tr>
<td>Carbamic Acid, Methylisothio-, Ethyl Ester</td>
<td>U178</td>
</tr>
<tr>
<td>Chlordane</td>
<td>U036</td>
</tr>
<tr>
<td>* Copper Cyanides</td>
<td>P092</td>
</tr>
<tr>
<td>1,2-Dibromo-3-chloropropane</td>
<td>U066</td>
</tr>
<tr>
<td>1,2-Dichloropropane</td>
<td>U083</td>
</tr>
<tr>
<td>1,3-Dichloropropene</td>
<td>U084</td>
</tr>
<tr>
<td>2,4-Dichlorophenoxy Acetic Acid</td>
<td>U240</td>
</tr>
<tr>
<td>DDT</td>
<td>U061</td>
</tr>
<tr>
<td>* Dieldrin</td>
<td>P037</td>
</tr>
<tr>
<td>Dimethylcarbamoyl Chloride</td>
<td>U097</td>
</tr>
</tbody>
</table>

1Chlorobenzene is listed by EPA as a hazardous waste due to its toxicity and has been assigned EPA Hazardous Waste Number F002. It has a flashpoint, however, of less than 140°F and is therefore included here as an ignitable waste.
### APPENDIX B

#### Pesticides (Continued):

<table>
<thead>
<tr>
<th>Chemical Name</th>
<th>Hazard Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dinitroresol</td>
<td>P047</td>
</tr>
<tr>
<td>Dinoseb</td>
<td>P020</td>
</tr>
<tr>
<td>Disodium Monomethanoarsenate</td>
<td>D004</td>
</tr>
<tr>
<td>Disulfoton</td>
<td>P039</td>
</tr>
<tr>
<td>Endosulfan</td>
<td>P050</td>
</tr>
<tr>
<td>Endrin</td>
<td>P051</td>
</tr>
<tr>
<td>Ethylmercuric Chloride</td>
<td>D009</td>
</tr>
<tr>
<td>Famphear</td>
<td>P097</td>
</tr>
<tr>
<td>Heptachlor</td>
<td>P059</td>
</tr>
<tr>
<td>Hexachlorobenzene</td>
<td>U127</td>
</tr>
<tr>
<td>Kepone</td>
<td>U142</td>
</tr>
<tr>
<td>Lindane</td>
<td>U129</td>
</tr>
<tr>
<td>2-Methoxy Mercurochlor</td>
<td>D009</td>
</tr>
<tr>
<td>Methoxychlor</td>
<td>P071</td>
</tr>
<tr>
<td>*Methyl Parathion</td>
<td>D004</td>
</tr>
<tr>
<td>Monosodium Methanoarsenate</td>
<td>P075</td>
</tr>
<tr>
<td>*Nicotine</td>
<td>P089</td>
</tr>
<tr>
<td>*Parathion</td>
<td>U185</td>
</tr>
<tr>
<td>Pentachloronitrobenezene</td>
<td>P094</td>
</tr>
<tr>
<td>Pentachlorophenol</td>
<td>P108</td>
</tr>
<tr>
<td>Phenylmercuric Acetate</td>
<td></td>
</tr>
<tr>
<td>*Phorate</td>
<td></td>
</tr>
<tr>
<td>*Strychnine</td>
<td></td>
</tr>
<tr>
<td>2,4,5-Trichlorophenoxy Acetic Acid</td>
<td></td>
</tr>
<tr>
<td>2-(2,4,5-Trichlorophenoxy)-Propionic Acid</td>
<td></td>
</tr>
<tr>
<td>*Thallium Sulfate</td>
<td></td>
</tr>
<tr>
<td>Thiram</td>
<td></td>
</tr>
<tr>
<td>*Toxaphene</td>
<td></td>
</tr>
<tr>
<td>Warfarin</td>
<td></td>
</tr>
</tbody>
</table>

#### Reactives:

Reactive wastes include reactive materials or mixtures which are unstable, react violently with or form explosive mixtures with water, generate toxic gases or vapors when mixed with water (or when exposed to pH conditions between 2 and 12.5 in the case of cyanide or sulfide bearing wastes), or are capable of detonation or explosive reaction when heated or subjected to shock (for a complete description of reactive wastes, see 40 CFR 261.23, Characteristic of reactivity). Unless otherwise specified, all reactive wastes have the EPA Hazardous Waste Number D003. The following materials are commonly considered to be reactive:

<table>
<thead>
<tr>
<th>Chemical Name</th>
<th>Hazard Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acetyl Chloride</td>
<td></td>
</tr>
<tr>
<td>Organic Peroxides</td>
<td></td>
</tr>
<tr>
<td>Chronic Acid</td>
<td></td>
</tr>
<tr>
<td>Perchlorates</td>
<td></td>
</tr>
<tr>
<td>Cyanides</td>
<td></td>
</tr>
<tr>
<td>Permanganates</td>
<td></td>
</tr>
<tr>
<td>Hypochlorites</td>
<td></td>
</tr>
<tr>
<td>Sulfides</td>
<td></td>
</tr>
</tbody>
</table>

#### Spent Plating and Cyanide Wastes:

Spent plating wastes contain cleaning solutions and plating solutions with caustics, solvents, heavy metals, and cyanides. Cyanide wastes may also be generated from heat treatment operations, pigment production, and manufacturing of anticaking agents. Plating wastes are generally Hazardous Waste Numbers F006-F009, with F007-F009 containing cyanide. Cyanide heat treating wastes are generally Hazardous Waste Numbers F010-F012. See 40 CFR 261.32 for a more complete description of plating wastes.

#### Wood Preserving Agents:

The wastewater treatment sludges from wastewater treatment operations are considered hazardous (EPA Hazardous Waste Number K001—bottom sediment sludges from the treatment of wastewater processes that use creosote and pentachlorophenol). In addition, unless otherwise indicated, specific wood preserving compounds are:

<table>
<thead>
<tr>
<th>Chemical Name</th>
<th>Hazard Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chromated Copper Arsenate</td>
<td>D004</td>
</tr>
<tr>
<td>Creosote</td>
<td>U051</td>
</tr>
<tr>
<td>Pentachlorophenol</td>
<td>F027</td>
</tr>
</tbody>
</table>

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NOTE: This handbook was intended to avoid the need for you to obtain, read, and understand the actual regulatory requirements for small quantity generators contained in the Code of Federal Regulations (CFR). However, if you wish to obtain a copy of the actual regulations, you may do so by requesting a copy of the March 24, 1986 Federal Register from one of the sources in Appendix A. The requirements for small quantity generators are contained in Parts 261 and 262 of the hazardous waste regulations.

BILLING CODE 4210-33-C
Appendix 10—Sample of a PHA Hazard Communication Program

Columbia Housing Authority’s Hazard Communication Program

General Policy
The purpose of this notice to inform all employees that the Columbia Housing Authority is complying with the OSHA Hazard Communication Standard, Title 29, Code of Federal Regulations 1910.1200, by complying a hazardous chemicals list, by using MSDS’s, by ensuring that containers are labeled, and by providing employees with training.

This program applies to all work operations where employees may be exposed to hazardous substances under normal working conditions or during an emergency situation.

The Safety and Health Manager, the Assistant Technical Director for Modernization, is the Program Coordinator, acting as the representative of the Assistant Administrator for Maintenance.

Modernization and Development who has overall responsibility for the program. The Safety and Health Manager will review and update the program, as necessary. All employees will be given a copy of the program when hired. Copies of the written program may be obtained from the Office of the Safety and Health Manager. The Safety and Health Manager will report monthly on the specific and general compliance with the program requirements. Under this program, employees will be informed of the contents of the Hazard Communication Standard, the hazardous properties of chemicals with which they work, safe handling procedures and measures to take to protect themselves from those chemicals. Employees will also be informed of the hazards associated with non-routine tasks.

List of Hazardous Chemicals

The Safety and Health Manager will make a list of all hazardous chemicals and related work practices used in the facility, and will update the list as necessary through continuous coordination with the Purchasing Agent. Our list of chemicals identifies all of the chemicals used at the various projects. A separate list is available for each project and is posted on the bulletin board at each construction, maintenance, and community management office. Each list also identifies the corresponding MSDS for each chemical. A master list of these chemicals will be maintained by, and is available from the Safety and Health Manager at his office.

Material Safety Data Sheets (MSDS’s)

MSDS’s provide specific information on the chemicals employees use. The Safety and Health Manager will maintain a binder in his office with an MSDS on every substance on the list of hazardous chemicals. The MSDS will be a fully completed OSHA Form 174 or equivalent. The office managers will ensure that each project maintains an MSDS for hazardous materials in that area. MSDS’s will be made readily available at employee work stations. The Safety and Health Manager will direct the posting of chemical lists and related MSDS at each posting site and will inspect and report on each site monthly.

The Safety and Health Manager is responsible for acquiring and updating MSDS’s. He will contact the chemical manufacturer or vendor if additional research is necessary. If a hazardous chemical has not been supplied with an initial shipment. All new procurement involving an MSDS will be cleared prior to purchase by the Safety and Health Manager. A master list of MSDS’s is available from the Safety and Health Manager.

Non-Routine Tasks

If an employee is required to perform hazardous non-routine tasks, a special training session will be conducted to inform him/her regarding the hazardous chemicals to which they might be exposed and the protective precautions to take to reduce or avoid exposure.

Training
Everyone who works with or is potentially exposed to hazardous chemicals will receive initial training on the Hazard Communication Standard and the safe use of those hazardous chemicals. If a new hazard is introduced, additional training will be provided. Regular by-weekly safety meetings will also be used to review the information presented in the initial training. Foremen and other supervisors will be extensively trained by expert consultants from the S.C. Department of Labor and other sources regarding hazards and appropriate protective measures so they will be available to answer questions from employees and provide daily monitoring of safe work practices.

The training plan will emphasize these items:
1. Summary of the standard and this written program.
2. Chemical and physical properties of hazardous materials (e.g., flash point, reactivity) and methods that can be used to detect the presence or release of chemicals. The Safety and Health Manager will direct the posting of chemical lists and related MSDS at each posting site and will monitor and report on each site monthly.
3. Physical hazards of chemicals (e.g., potential for fire, explosion, etc.).
4. Health hazards, including signs and symptoms of exposure, associated with exposure to chemicals and any medical condition known to be aggravated by exposure to the chemical.
5. Procedures to protect against hazards (e.g., personal protective equipment required, proper use, and maintenance; work practices or methods to assure proper use and handling of chemicals; and procedures for emergency response).
6. Work procedures to follow to assure protection when cleaning hazardous chemical spills and leaks.
7. Where MSDS’s are located, how to read and interpret the information on both labels and MSDS’s and how employees may obtain additional hazard information.

The Safety and Health Manager or designee will review our employee Assistant Administrator for Maintenance, Modernization and Development, monthly on training or re-training needs. Re-training is required when the hazard changes or when a new hazard is introduced into the workplace, but it will be company policy to provide training regularly in safety meetings to ensure the effectiveness of the program. As part of the assessment of the training program, the Safety and Health Manager will obtain input from employees regarding the training they have received, and their suggestions for improving it. The Safety and Health Manager will maintain an up-to-date file of all employee’s training.

Hazard Communication Program

HOW WE WILL USE IT

1. A master list will be kept of all hazardous chemicals. A copy of this list will be left in the master file and posted in each construction, maintenance and community management office.
2. A copy of the MSDS for each chemical will be kept in a master file at each location that administers the chemical. Employees will be informed of the new chemical and of precautions to be observed.
3. A master file will be kept in the office of the Safety and Health Manager for copies of the MSDS for all chemicals that are used by the Housing Authority. The project/community file will contain copies of the MSDS for those chemicals currently being used on that project/community as well as an archival record of chemicals previously used.
4. New employees will receive, at time of hire, a detailed training by their supervisor on all chemicals which they will be required to use or to which they may be exposed. Trainer will be familiar with MSDS for specific chemicals and will explain this information to employees. Training will follow the format as outlined on the training checklist. Safety update information of a general nature will be received in regular safety meetings.
5. Employees issued chemicals will, at the time of receipt, ensure that containers have proper labels or warning signs.
6. New chemicals will not be used until MSDS’s have been received, studied and employees trained in the use of new chemicals.
7. The supervisor in charge at each location from which chemicals are issued to employees will be assigned the responsibility for ensuring proper labeling or warning signs for containers that hold hazardous chemicals. No chemical will be used unless container is properly labeled.
8. All chemical spills will immediately be cleaned up and disposed of in accordance with the appropriate MSDS.
9. Failure to comply with all rules, instructions and procedures concerning hazardous chemicals may be a cause for immediate dismissal.
HAZARDOUS CHEMICAL TRAINING CHECKLIST

Employee Name

1. Employee has been trained before first assignment to use chemicals.

2. Employee has been informed of the specific information and training requirements of the Hazard Communication Standard.

3. Employee has been informed of the requirements of the standard and his/her rights under the law.

4. Employee has been informed of, and received a copy of our written program and training requirements.

5. Employee has been informed of the different types of chemicals he/she may use, the hazards associated with them and their proper use and handling.

6. Employee has been informed of the hazards associated with performing non-routine tasks.

7. Employee knows how to detect the presence or release of hazardous chemicals in the work place.

8. Employee has been trained in the use of proper work practices, personal protective equipment, and clothing to reduce or eliminate their exposure to the chemicals in the work area.

9. Employee has been trained in emergency and first-aid procedures and signs of over exposure.

10. Employee has been informed of the list of hazardous chemicals and Material Safety Data Sheets (MSDS) and where they are located.

11. Employee knows how to use a material Safety Data Sheet.

12. Employee has had labels and their warnings explained to him/her.
13. Employee understands that failure to comply with established rules, instructions and procedures may be cause for immediate dismissal.

Employee Signature  Date

Trainer Signature  Date
Appendix 11—Work Design for Force Account

Appendix 11—Work Design for Force Account

The key to success in using Force Account is careful selection of the work that Force Account will perform. HUD wage scales, for the most part, preclude competing in the open market for the best craftsmen that can be found. Therefore, the work must be selected and designed to be accomplished by workers who either have moderate skills or can be trained by one of several highly skilled crew members. Also, there are specialized types of work in which there is enough competition among available contractors that Force Account may not be cost effective.

The Force Account crew must be adequate for the work to be performed. Each crew is headed by a supervisor and an assistant. The crews are divided into teams of specialized craftsmen. The interior renovations in process in multiple communities can be done in a unit-sequence manner, i.e., a team does its work on an apartment unit and moves on to the next sequential unit. The following specialized team moves into the unit the previous team just finished.

Suggested sequence for work flow planning:

a. Divide the work into logical steps by craft.

b. Expand or contract the steps by sequential portions of the work that can or cannot be done concurrently. Allow for drying time when using liquid materials of any kind.

c. Determine the desired number of units to be completed per period based on budget constraints and HUD required time for completion. This number should reflect a whole number of days that each crew will spend in a unit, i.e., 1, 2, 3, etc. days. Experience has shown that scheduling a crew into a unit for a fraction of a day is unmanageable and is difficult for crew members to visualize as a deadline.

d. Determine the number of days between unit completions per 3c, above. This would be the maximum number of days that a single crew of craftsmen can work in a unit.

e. Determine crew size necessary to accomplish the work within this number of available days. If the scope of work in a unit is too great for a manageable crew to accomplish within this number of days, then that crew may have to be split into either phase 1 and phase 2 crews; each doing their portion of the work in the allowable days or two separate crews working in alternate units for twice the maximum number of days giving a net crew time-in-unit equal to the maximum allowable. If the scope of work in a unit is too small for a crew to fully utilize the number of days available, consider using some or all of the crew to augment or replace other crews during the unutilized portion of the allowable time-in-unit.

f. Determine the minimum number of days for completion of a unit by multiplying separate blocks of work by the allowable time-in-unit. Insert one or more blocks of "dead" time into the sequence to allow for absences, foul-ups, or unit-specific unplanned-for repairs. It is, however, vital that the crew in the block preceding "dead" time understands that the following block does not constitute a "dead" deadline for not getting work. The placement within the sequence of this time will depend on the Owner's past experience with the project's problems.

g. Determine the actual number of units that must be available for renovation by adding the number of work and "dead" time blocks together. If the Owner is moving residents out of their units ahead of the renovation and moving back in after renovation, extra blocks reflecting relocation preparation and moving time must be added to the total. This final total will be the number of temporary relocation units that must be available if the plan is to work.

h. Publish a schedule and post it at the worksite so that every crew member can tell at a glance what they're supposed to accomplish.

Appendix 12—A Suggested Occupant Notification Regarding Lead-Based Paint

Watch Out for Lead-Based Paint Poisoning

To: Renters of Housing Constructed Before 1978

If your residence was constructed before 1978, there is a possibility that it may contain lead-based paint. Please Read the Following Information Concerning Lead Paint Poisoning

The interiors of older homes and apartments often have layers of lead-based paint on the walls, ceilings, window sills and door frames. Lead-based paint and primers may also have been used on outside porches, railings, garages, fire escapes and lamp posts. When the paint chips, flakes, or peels off, there may be a real danger for babies and young children.

Children may eat paint chips or chew on painted railings, window sills or other items when parents are not around. Children can also ingest lead-based paint if they do not specifically eat paint chips. For example, when children play in an area where there are loose paint or dust particles containing lead, they may get these particles on their hands, put their hands into their mouths, and ingest a dangerous amount of lead.

Has your child been especially cranky or irritable? Is he or she eating normally? Does he or she complain about headaches? Is he or she eating normally? Does he or she have stomach aches and vomiting? Is he or she eating normally? Does he or she have frequent ear infections? Is he or she eating normally? Does he or she have a buildup of dirt, dust and dirt is easy and very important.

5. Do not allow loose paint to remain within your children's reach since children may pick loose paint off the lower part of the walls.

As a Renter

You should notify the Housing Authority at the Landlord immediately if your unit in which you live has flaking or peeling paint, water leaks from faulty plumbing, or defective roofs. You should cooperate with the landlord's efforts to repair any deficiencies and keep your unit in good shape. When lead-based paint is removed by scraping or sanding, a hazardous dust is created which can enter the body either by breathing or swallowing the dust. The use of heat or paint removers could create a vapor or fume which may cause poisoning if inhaled over a long period of time.

Whenever possible, the removal of lead-based paint should take place when there are no children, pregnant women on the premises.

Remember that you as a parent play a major role in the prevention of lead poisoning. Your actions and awareness about the lead problem can make a big difference.

I have received a copy of the Notice entitled, "Watch Out for Lead Paint Poisoning" and a copy of "The Danger of Lead Poisoning to Renters."

Signature Date

Appendix 12—Clearance Notice for Occupants

Notice to Occupants of Clearance After a Lead Paint Abatement Project

Notice to Occupants of Clearance After a Lead Paint Abatement Project

Dear Occupant:

This is to notify you that the dwelling located at:

has been cleared for reoccupancy, as a result of Lead Paint Abatement.

This abatement work was necessary in order to address potentially hazardous conditions in your dwelling, such as lead paint and lead dust. Although this abatement was performed in a very careful and comprehensive way, it is possible that additional lead hazards may occur, especially if the dwelling is not properly maintained and cleaned regularly. Consequently, it is important to keep your dwelling well maintained and clean at all times. Do not let
painted surfaces deteriorate. At the first sign of peeling paint repaint these surfaces. Pay special attention to surfaces where lead dust may reaccumulate, such as floors, window sills and window well. These surfaces should be regularly washed with a high phosphate detergent because this type of detergent seems to work best in helping remove lead dust. Remember, you can help to keep your dwelling safe by keeping it clean and in good condition.

Be Healthy.

(Signature)

Appendix 13—Quality Assurance Guidance For Sampling and Analysis

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A-13.1 Introduction
A-13.2 Project Background
A-13.3 Organization and Management
A-13.4 Sampling Design
A-13.5 Field Sampling Equipment and Methods
A-13.6 Data Processing and Analysis
A-13.7 Quality Assurance
A-13.8 References

List of Figures

A-13.1 Elements of a Sampling and Analysis Plan

Appendix 13.0—Quality Assurance Guidance for Sampling and Analysis Plans

A-13.1 Introduction

This appendix provides detailed guidance on the preparation of Sampling and Analysis Plans for lead testing programs. It focuses on the preparatory design and management of the testing program, as well as the quality assurance and quality control activities required. It also includes the testing design, procedures, and documentation required for various testing phases and to ensure that quality assurance is being performed.

Q: How will the PHA use the Sampling and Analysis Plan?

A: The PHA will scrutinize the contents of the plan and use it along with other relevant documents to evaluate the completeness and quality assurance of the Sampling and Analysis Plan. The following questions and answers provide guidance on the contents of the Sampling and Analysis Plan.

Q: For how long should the Sampling and Analysis Plan be prepared for all phases of testing?

A: Separate Sampling and Analysis Plans should be prepared for all three phases of testing that occur during a lead-paint abatement project: hazard identification and abatement testing (which involves the XRF testing phase to determine the extent of the lead-based paint hazard), confirmatory testing (which involves laboratory testing to confirm XRF results), and abatement testing (which includes worker safety and clearance testing where the laboratory will examine the results of wipe sampling to verify that the lead hazard has been eliminated). This appendix addresses each testing phase separately. The type of testing will be conducted and the size of housing project determine the amount of detail that must be provided in each of the Sampling and Analysis plans. Small project plans, for example, may be less detailed and may contain fewer elements than those of larger projects.

Q: Which topics must be covered in a Sampling and Analysis Plan and which are optional?

A: All of the topics discussed in this appendix are considered desirable; a well-written plan will address all of these subjects. Figure A-13.1 presents the topics that should always be addressed and indicates the amount of detail required in a Sampling and Analysis Plan.

Q: How will the PHA assess the value and completeness of a Sampling and Analysis Plan prepared by an abatement contractor?

A: The PHA or its designee will check the plan against this appendix to ensure that all appropriate topics have been covered. Therefore, to ensure that relevant topics have been addressed and to facilitate preparation and review of the plan, follow the format presented in this appendix and in Figure A-13.1.

Q: How will the PHA use the Sampling and Analysis Plan?

A: The PHA will scrutinize the contents of the plan and use it along with other relevant documents to assess the quality assurance and quality control aspects of the testing program. The following questions and answers provide guidance on the contents of the Sampling and Analysis Plan.

Q: Which topics must be covered in a Sampling and Analysis Plan and what is its purpose?

A: A Sampling and Analysis Plan is part of the Abatement Plan and is a written document that completely describes a lead testing program including the testing design, test method to be used, project organization and responsibilities, and specific quality assurance and quality control activities that will be implemented. The purpose of a Sampling and Analysis Plan is to ensure that testing activities are conducted in accordance with scientific and regulatory requirements.

Q: Under what circumstances do I need to prepare a Sampling and Analysis Plan?

A: Separate Sampling and Analysis Plans should be prepared for all three phases of testing that occur during a lead-paint abatement project: hazard identification (which is the XRF testing phase to determine the extent of the lead-based paint hazard), confirmatory testing (which involves laboratory testing to confirm XRF results), and abatement testing (which includes worker safety and clearance testing where the laboratory will examine the results of wipe sampling to verify that the lead hazard has been eliminated). This appendix addresses each testing phase separately. The type of testing will be conducted and the size of housing project determine the amount of detail that must be provided in each of the Sampling and Analysis plans. Small project plans, for example, may be less detailed and may contain fewer elements than those of larger projects.

Q: Which topics must be covered in a Sampling and Analysis Plan and which are optional?

A: All of the topics discussed in this appendix are considered desirable; a well-written plan will address all of these subjects. Figure A-13.1 presents the topics that should always be addressed and indicates the amount of detail required in a Sampling and Analysis Plan.
A-13.2.1 Planning and Design

The goal of planning is to ensure that the objectives of the XRF testing can and will be achieved. The purpose of this section is to provide detailed information on the initial planning process for lead testing. This section of the Sampling and Analysis Plan, along with explaining background information and personnel responsibilities, should contain specific information on the testing objectives and the sampling design.

A-13.2.1.1 Project Background

This section provides a general description of the XRF lead testing program. This description can be brief but should be clearly written and have sufficient detail to allow those individuals responsible for reviewing and approving the Sampling and Analysis Plan to understand how the objectives of the proposed study can be achieved. This section may contain a brief summary of information appearing later such as the regulatory setting, a clear statement of objectives and hypotheses to be tested, a brief description of the sampling design, a summary of quality control procedures that will be taken to ensure data quality, a summary of the data handling procedures, and anticipated duration and cost of the testing.

A-13.2.1.2 Organization and Management

A clearly defined organizational structure is essential to ensure good communications between the PHA and its contractors, as well as among testing teams and among key task personnel. The organizational structure should provide for their assigned tasks. Evidence should be provided explaining that individual's management authority and project responsibilities and authority. It is recommended that the Sampling and Analysis Plan identify key individuals responsible for all major activities such as field design and operations, data quality assurance, and Health and Safety. An additional recommendation is that lines of authority be included in the plans. The organizational chart illustrating how these individuals relate to the organization. It is advisable that names of authority be indicated on the chart including both line management authority and project management authority. For each key individual, a sentence or two should be provided explaining that individual's responsibilities and authority. Telephone numbers can be listed to facilitate communication. The number of key contact persons or coordinators should be available to field personnel and PHA staff at all times.

The Sampling and Analysis Plan should describe the qualifications of all key personnel for their assigned tasks. Evidence should be provided that any required specific training either has been or will be completed prior to the start of XRF testing. Resumes of key task personnel can be included as an appendix.

A-13.2.1.3 Testing Objectives

General guidance on XRF testing objectives is provided in Chapter 4 of these guidelines. In all cases, the primary testing objectives for XRF hazard identification are to determine whether a lead-based hazard exists, and if so, at what locations in a housing project and at what concentrations lead-based paint exists. This section of the Sampling and Analysis Plan should take this general guidance and relate the testing objectives in terms specific to the individual housing project. For example, the objectives may need to be tied to site-specific factors such as the age and painting history of the housing units; this divides the entire housing project into smaller subsets or decision groups about which individual hazard decisions can be made.

A-13.2.2 Field Sampling Equipment and Methods

Abatement decisions must be based on data of known quality that come from an XRF measurement system which is controlled by written detailed procedures. SOPs should be established to characterize and control the XRF system. The SOPs should be written and explain all the equipment, supplies, procedures, and documentation required. The most convenient way to present SOPs is usually in an appendix to the Sampling and Analysis Plan.

For XRF testing, SOPs such as those that follow may be appropriate:

- Selection of sampling locations for XRF measurement;
- Operation, maintenance, and calibration of the XRF equipment;
- Determination of lead in paint by XRF; and
- Documentation procedures.

The SOPs must cover various issues that involve data quality. The following sections...
The design of a particular testing program is discussed in Section A-13.2.1.4. If sampling locations are to be chosen by the XRF inspector, this choice should be governed by a procedure that provides guidance to the inspector as to the number of appropriate samples, the location of these samples, and the substrates that need to be sampled (e.g., plaster walls, concrete floors, door moldings, etc.). This procedure should include steps to ensure that randomization is part of the selection of sampling locations.

In describing the samples to be collected, a procedure for identifying the samples needs to be clearly defined. This procedure should fulfill the following requirements:

- Be easy to understand and relatively simple;
- Produce a unique identifier for every sample;
- Allow all samples to be traced to an exact location and analysis result; and
- Supply sufficient sample identifiers for use in database manipulations.

An inappropriate choice of an identification system for field samples can lead to major losses of data due to mislabeled samples or to problems in handling large volumes of data with computer systems.

XRF testing devices are sophisticated pieces of equipment which require maintenance, calibration, and a high level of operator training. An SOP should be written for the selected instrument describing the operation, maintenance, and calibration of the equipment. The instrument’s manual is not a suitable substitute; the written SOP needs to be more specific, but it can contain sections of the instrument manual that are appropriate. The SOP should be available to all appropriate sampling personnel and should be present on site during testing. The SOP should state the acceptable reference materials for calibration, the types of calibration, and the frequency of calibration. The procedure should list all required routine maintenance, the frequency of maintenance, and all parts and supplies needed for routine maintenance.

XRF Testing Procedures

An SOP may be required detailing the actual field analysis procedure for testing paint by XRF. This SOP should cover the calibration requirements specific for the particular field operation, and the various field activities that are unique to testing at a particular housing project. Issues that are not directly related to the operation of an XRF device, but which should be covered are as follows:

- More stringent calibration or drift check requirements;
- Paint lead levels that require laboratory confirmation;
- Paint lead levels that require substrate correction;
- Number of readings, acceptable range of readings, calculation of average lead concentration; and
- Required field data records to accompany the lead measurement.

These issues affect decisions that are important to the analysis of paint by XRF, but are not operational issues for a specific XRF instrument.

Documentation

All XRF testing activities need to be documented. The purpose of documentation is to provide proof that the measurements were taken as planned, to assess the conduct of testing activities after they have been completed, to provide information needed to assess anomalous results, and to provide a traceable link between an individual lead measurement and a painted surface in a housing unit. The Sampling and Analysis Plan should state what information needs to be recorded, how it is to be recorded, and who will record it. In general, the following information should be provided:

- Names, titles, and other relevant information about individuals conducting the XRF testing;
- Lead measurements along with sample identification, location, and substrate;
- Sampling method and instrument used;
- Instrument calibration and maintenance performed;
- Pertinent observations of unusual testing conditions; and
- A supervisor’s review of field records.

A systematic method of documentation should be developed that integrates the needs of the data users with the records of field activities. Sample results not supported and identified by complete and retrievable field documentation are of little use; however, too much information wastes time and can make retrieval of vital information exceedingly difficult.

Health and Safety

Protecting the health and safety of housing occupants and field personnel during every XRF testing is of utmost importance. This portion of the Sampling and Analysis Plan should describe the established procedures to protect these people during all phases of the XRF testing.

The Occupational Safety and Health Act of 1976 grants the Secretary of Labor broad power to require employers to provide a safe workplace for their employees. Lead is the largest single toxic risk in sampling and analysis for lead-based paint abatement. The Occupational Safety and Health Administration has specific requirements regarding lead and employees. These requirements are found in Chapter 29, Code of Federal Regulations, Part 1910.1025, and should be consulted and addressed in all sampling and analysis of lead in paint.

This section should include descriptions of personal protective measures to reduce human exposure to lead, such as hand washing, use of dust respirators, consumption of food outside testing areas, and blood level monitoring for field personnel. This section should address the operational aspects of XRF equipment and the risks associated with the radioactive source of the X-rays.

Data Processing and Analysis

This section of the Sampling and Analysis Plan should describe the procedures that have been established for processing and interpreting the XRF measurements. General guidance on the interpretation of XRF measurements is given in Section 4.1 of these guidelines. However, this section of the Plan should take the general guidance and state the decision strategy in terms specific to the individual housing project. For example, data may need to be interpreted separately for different buildings or groups of housing units with different painting histories.

The Sampling and Analysis Plan should also state the procedures for processing and storing the XRF measurements and other data. For small and relatively simple XRF testing programs, there may be no need for formal procedures other than good recordkeeping and the use of photocopies for data backups. However, for complex programs that generate large numbers of measurements over several weeks of testing, it is advisable that formal procedures be established for handling and storing the data. More detailed data procedures are discussed in Section A-13.5.

Quality Assurance

A description of procedures for ensuring the quality of the field XRF measurement should be part of the Sampling and Analysis Plan. Quality assurance (QA) activities should be made clear in the Sampling and Analysis Plan, so that the PHA has assurance that data quality will be measured and defensible.

The number and complexity of QA procedures required will depend on the size and complexity of the XRF testing program. For smaller and less complex XRF testing programs, relatively simple QA measures such as basic training, attentive supervision, and good recordkeeping may suffice. However, broader QA procedures and close monitoring are advised for programs that will generate large numbers of measurements, which will take several weeks to complete, or for programs that will be relatively costly. Some of these more formal QA procedures, such as system, performance, and data audits, are discussed in Section A-13.5. Other topics that might be addressed in this section of the Sampling and Analysis Plan are the use of audit samples, reference material used for control samples, and frequency of QC checks.

Reporting

A section on reporting should be included in every Sampling and Analysis Plan. At a minimum the routine reporting requirements should be described, and an outline for the final report on the XRF testing results should be presented. For large or complex testing programs, other items such as QA audit reports and corrective action reports may be required.

The PHA should maintain a repository of all reports, QA deliverables, and related documents. It is recommended that the reports and related documents be kept for a minimum of three years after the completion of any required abatement. Some of the
A-13.2.1 Project Background

The Sampling and Analysis Plan should identify their assigned tasks. The sampling equipment. This SOP should be designed, quality control measures, and anticipated duration and cost of the testing. This section provides a general description of the confirmatory testing program. This discussion should emphasize the similarities with, and especially the differences from, the previous plan for XRF testing. As discussed in Section A-13.2.1.2, the discussion should contain a brief summary of important aspects such as the testing objective, sampling design, quality control measures, and anticipated duration and cost of the testing.

A-13.3.1.2 Organisation and Management

For the FHA, much of the organizational structure and many of the management responsibilities will often be similar for both the XRF testing and confirmatory testing stages of a hazard identification program. However, the firm collecting paint samples in the field may be different from that which performed the XRF testing, and the organizational structure must also include the laboratory personnel. As recommended in Section A-13.2.1.2, this section of the Sampling and Analysis Plan should identify all key individuals, show how these individuals relate to the overall management structure, and describe their qualifications for their assigned tasks.

A-13.3.1.3 Testing Objectives

The primary testing objectives for both XRF testing and confirmatory laboratory testing are to determine whether a lead-based paint hazard exists, and if so, at what locations and concentrations it exists. In particular, the objective of the confirmatory testing may be either to help determine the specific locations of lead-based paint (i.e., decision Rule 3 in Chapter 4) or to help determine whether any such areas are present (i.e., Rule 3). This section of the Sampling and Analysis Plan should first briefly summarize the findings from the XRF testing, highlighting the areas where uncertainties still exist. It should then detail the particular objectives of the confirmatory laboratory testing program for each appropriate area within the housing project. For example, one part of the confirmatory testing program may have the objective of identifying all baseboards with lead-based paint in units in a single building.

The testing objectives should include a statement of how the decision rules will integrate the laboratory and XRF testing results. Chapter 4 discusses a recommended strategy; however, this strategy should be stated in terms tailored to the specific housing project. And, if another strategy is adopted, then that approach should be well documented including any important assumptions.

A-13.3.1.4 Sampling Design

This section of the Sampling and Analysis Plan should document the specific confirmatory testing sampling design including the number of paint samples to be analyzed, and the specific locations at which those samples are to be collected. This description should include the physical layout of the housing project, along with diagrams showing the exact locations at which samples will be collected. If appropriate, these locations should be further identified with the XRF measurements that are to be confirmed.

A-13.3.2 Field Sampling Equipment and Methods

As discussed in Section A-13.2.2, a list should be available of all specific locations at which confirmatory samples are to be collected (Section A-13.3.1.4). As discussed in Section A-13.2.2.1, a systematic procedure for identifying these samples should be defined and documented. These SOPs must address all areas that affect the quality of the data, including equipment, supplies, procedures, and documentation required to conduct the work. For the sampling stage of confirmatory testing, many of the following SOPs may be appropriate:

- Selection of sampling locations;
- Operation and maintenance of sampling equipment;
- Paint sampling methods;
- Sample handling and shipping; and
- Documentation procedures.

The following sections discuss specific topics that should be addressed in field sampling procedures for confirmatory testing.

A-13.3.2.1 Selection of Sampling Locations

After the XRF testing has been completed, a list should be available of all specific locations at which confirmatory samples are to be collected (Section A-13.3.1.4). As discussed in Section A-13.3.2.1, a systematic procedure for identifying these samples should be defined and documented. These SOPs must address all areas that affect the quality of the data, including equipment, supplies, procedures, and documentation required to conduct the work. For the sampling stage of confirmatory testing, many of the following SOPs may be appropriate:

- Selection of sampling locations;
- Operation and maintenance of sampling equipment;
- Paint sampling methods;
- Sample handling and shipping; and
- Documentation procedures.

The following sections discuss specific topics that should be addressed in field sampling procedures for confirmatory testing.
should be of appropriate size and shape for the type and amount of sample to be collected. It is recommended that sampling supplies and containers be itemized in such a manner that a field worker knows what is needed for every day of routine sampling.

A-13.3.2.4 Sampling Methodology

This section of the Sampling and Analysis Plan should describe the specific paint sampling method to be employed for confirmatory testing. This description may cover the following topics:

- Paint scraping, lifting, and removal techniques;
- Minimum sample size needed for laboratory analysis;
- Standardization of any subjective observations that need to be recorded;
- Description of situations for which the paint sampling is inappropriate and should be repeated; and
- Field data documentation.

A-13.3.2.5 Contamination Avoidance and Sample Handling

Field sampling activities must be carried out in a manner that avoids the cross-contamination of samples with high concentrations of lead to samples with low concentrations of lead. Contamination introduced from sampling equipment and from sample containers must also be avoided.

This section of the Sampling and Analysis Plan should discuss the field methods that will be used to minimize contamination of samples. All cleaning and decontamination steps needed for field sampling equipment and sample containers should be described. Paint samples should be handled in a manner that protects their integrity and assures traceability from field records to final results. Paint samples are relatively stable and need only be protected from breakage and spillage. They may be shipped and stored at room temperature and the lead concentration will not appreciably change for at least six months following collection. The Sampling and Analysis Plan should address the following topics concerning sample handling:

- Traceability of the sample from field records to final results;
- Packaging and shipping requirements to assure samples arrive intact at the laboratory;
- Permanent sample labeling and unique identification:
  - Sample inventory forms that identify the required laboratory analysis procedure by name or number;
  - Receipt of samples at the laboratory; and
  - Scheduling issues such as the maximum allowable time between sample collection in the field, sample receipt in the laboratory, sample preparation, and sample analysis.

A-13.3.2.6 Documentation

As discussed in Section A-13.2.2.4, all field sampling activities should be completely documented. This section of the Sampling and Analysis Plan should state the information to be recorded, the means by which the information is to be recorded, and the persons responsible for documentation. Some of the specific items that should be addressed are as follows:

- Names, titles, and other relevant information about individuals conducting the sampling;
- Sample identifiers including sampling date and location;
- Sampling method and equipment used; and
- Pertinent observations of unusual sampling conditions:
  - Shipping information; and
  - A supervisor's review of field records.

A-13.3.3 Laboratory Analyses and Measurements

In confirmatory testing programs, paint samples will be shipped to a qualified laboratory for sample preparation and chemical analysis. The complete treatment of samples in the laboratory and the associated SOPs should be described in this section of the Sampling and Analysis Plan. In many cases the field sampling duties will not be performed by the same firm that is doing the laboratory analysis. Therefore, many topics that might appear to be related (e.g., sample handling, documentation) may be covered by two separate SOPs.

A-13.3.3.1 Sample Handling

Sample handling is an issue that should be treated as a separate laboratory SOP. Most laboratories performing routine analyses should have a system for receiving and tracking samples. In general, laboratory sample handling issues that should be addressed in the Sampling and Analysis Plan are as follows:

- Traceability of the sample from receipt to final result:
  - Sample labeling and identification;
  - Receipt of samples in the laboratory;
  - Sample scheduling including the maximum allowable time between sample receipt in the laboratory, sample preparation, and sample analysis; and
  - Disposition of the field sample following laboratory analysis.

A-13.3.3.2 Laboratory Measurement Procedures

Most laboratory measurement systems have two separate SOPs for sample preparation and chemical analysis. Sample preparation details all steps used to change the paint sample into a physical state acceptable for laboratory instrumentation, such as digestion of the sample to solubilize it for analysis by atomic spectroscopy. Chemical analysis SOPs detail the instrumental conditions, calibration procedures, and analysis of the prepared samples. Confirmatory paint samples may be analyzed by flame atomic absorption, graphite furnace atomic absorption, or inductively coupled plasma-atomic emission spectroscopy. Appendix 5 discusses these methods of chemical analysis. Many of the laboratory procedures discussed are standard EPA, NIOSH or ASTM methods. Therefore, the writing of detailed SOPs for the Sampling and Analysis Plan may not be required because standard references contain sufficient information. However, in some cases laboratories may modify the standard procedures to fit their specific operating requirements. Therefore, any reference to a standard method should detail any and all modifications to the procedure; and a modified SOP incorporating all changes should be generated for the Sampling and Analysis Plan. For example, a laboratory might use EPA method 3050 for sample preparation and a specialized method for chemical analysis. In this case, an SOP should be included for the specialized chemical analysis method with appropriate reference to method 3050.

A-13.3.3.3 Reference Materials

All laboratory measurements are based upon some ultimate reference material, and the quality of the resulting data is only as good as the quality of the reference material. All reference materials should be listed in the Sampling and Analysis Plan and the SOPs should require the specified reference materials. All standard materials must be appropriately characterized in terms of manufacturer, lot number, solvent, concentration, purity, certification, and expiration date. The following types of reference materials should be included in the Sampling and Analysis Plan when applicable:

- Standards used for calibrating the instruments;
- Control samples used to verify successful calibration of the instruments;
- Quality control check standards used to verify successful calibration of the instruments;
- Standards used in fortifying samples for determination of accuracy by recovery of the fortified amount (e.g., matrix spiking standards); and
- Control matrices used in fortification studies to determine accuracy by recovery.

A-13.3.3.4 Instrumentation

All instrumentation should be listed in the Sampling and Analysis Plan. SOPs for instrument maintenance and operation may be included. The instrument performance specifications for range, linearity, and precision should be provided along with the method for demonstrating the achievement of instrument performance requirements. In many cases this subject is detailed in instrument calibration requirements.

A-13.3.3.5 Calibration

All methods of instrument calibration should be briefly described in the Sampling and Analysis Plan. All criteria for demonstrating successful calibration should be summarized in a table. The following issues should be addressed for the analytical system:

- Initial demonstration of the linearity of the instrument and determination of quantification constants by the use of standard materials at different concentrations. Demonstration of linearity may be judged by quantifiable acceptance criteria such as linear correlation coefficients or the demonstrated relative error of calibration standards;
- Demonstration of the absence of instrument carryover by the analysis of a calibration blank following the highest concentration standard used in initial calibration. The lack of instrument carryover
should be judged by quantifiable acceptance criteria.

Verification of instrument calibration by the analysis of an independent standard (sometimes called a check standard or QC standard). This standard is analyzed following the initial calibration and is from stock standards different from those used in initial calibration. The verification is demonstrated by comparing the standard concentration determined instrumentally to the certified concentration.

• Demonstration of the absence of interferences. For example, ICP procedures sometimes require the analysis of an interference standard containing the components most likely to be found in the sample which interferes with quantitation.

• Demonstration of instrument stability by the routine analysis of the same standards and blanks used in initial calibration. The stability of the instrument should be judged by criteria associated with the routine analysis.

A-13.3.5.3 Calculations

A step-by-step example of calculations should be given.

A-13.3.8 Documentation

The method of documenting the laboratory analyses should be described in the Sampling and Analysis Plan. In most cases sample preparation will be documented by writing a description of the activities in a notebook or a form created for that purpose. Sample analysis will involve the recording of instrument responses either manually or by a computer data system. All hand-recorded information should be recorded directly rather than transcribed from working notes which are later discarded. In general, the following information should be recorded:

• Name of sample preparer or analyst;
• Date of work;
• List of all samples;
• Description of all sample preparation steps;
• Description of all instruments used and instrument conditions;
• Discussion of all problems, resolutions to the problems, and any modifications or changes in SOPs;
• Instrument calibration calculations;
• Calculation of all QC data (e.g., control sample results, accuracy, linearity, precision, etc.); and
• Validation and release of final sample data.

If the confirmatory data are challenged, sample results must be supported and identified by retrievable and complete documentation of all field and laboratory treatment of the samples. Documentation should be complete enough for audit procedures and for construction of all laboratory activities by independent reviewers.

A-13.5.4 Health and Safety

As discussed in Section A-13.2.3, protecting the health and safety of housing occupants, field personnel, and laboratory personnel during all stages of a confirmatory testing program is of great importance. The section should describe the procedures to protect the occupants of a housing unit and field personnel during paint sampling, as well as the procedures to protect laboratory personnel during sample preparation and analysis. The plan should include descriptions of personal protective measures to reduce human exposure to lead, such as hand washing, use of dust respirators, use of laboratory fume hoods, consumption of food outside sampling areas, and blood level monitoring of field samplers. There should be a separate section in the plan on applicable field operations. Laboratory sample preparation and chemical analysis will have similar safety issues which can be covered in a single section.

A-13.3.5 Data Processing and Analysis

As discussed in Section A-13.2.4, the procedures that have been established for processing and interpreting the confirmatory laboratory measurements should be described in this section of the Sampling and Analysis Plan. General guidance on the interpretation of confirmatory measurements is given in Chapter 4 of these guidelines. However, this section of the plan should take the general guidance and restate the specific decision strategy by which the laboratory and XRF testing results will be integrated to help determine either the specific locations containing lead-based paint or to help determine whether any such areas are present.

The Sampling and Analysis Plan should also state the procedures for processing and storing laboratory and other data. For small confirmatory testing programs or those using computerized systems, management procedures may simply consist of good recordkeeping and the use of photocopied data backups. However, for larger and more complex programs, formal procedures should be established for handling and storing the data. More detailed data procedures are discussed in Section A-13.5.

A-13.3.6 Quality Assurance

A description of procedures for ensuring the overall quality of the confirmatory laboratory measurements should be part of the Sampling and Analysis Plan. Two types of quality control that need to be considered are initial demonstration of performance and routine quality control for every day sample analyses. Initially, the measurement system should be characterized by the overall precision, accuracy and detection limits for the concentration range required. Generally this entails the laboratory generation and analysis of multiple samples of known lead levels at different certified levels. The routine performance of the entire analysis methodology should be measured by systematic preparation and analysis of quality control samples. These samples should be processed throughout the entire sample preparation and chemical analysis procedure.

The number of QA procedures required will depend on the size and complexity of the confirmatory testing program. For smaller programs, relatively simple QA measures such as attentive project management, basic training in field sampling methods, and good recordkeeping may suffice. To help ensure quality laboratory work, a laboratory should be selected that has already established an adequate program of internal quality assurance and quality control procedures including standard operating procedures. Additional aspects of selecting a quality laboratory are discussed in Chapter 4 and Appendix 5.

Complex testing programs that will collect a large number of samples for laboratory analysis should be monitored closely with formal QA procedures. These procedures may include the use of QC samples and QA audits. Quality control and quality assurance procedures are further discussed in Section A-13.5 and Appendix 5. Other topics that might be addressed in this section of the Sampling and Analysis Plan are the use of audit samples, reference material used for quality assurance checks. The use of QC data should be detailed in the plan. The plan should also describe calculations for accuracy and precision, the generation and use of control charts, and the criteria for reanalysis of a sample batch that does not meet performance requirements.

A-13.3.7 Reporting

As discussed in Section A-13.2.6, a section on reporting should be included in every
Sampling and Analysis Plan for confirmatory testing. The routine reporting requirements should be described along with an outline for the final report on hazard identification testing including both the XRF and laboratory results. For complex testing programs, items such as QA audit reports and corrective action reports should also be discussed. Some of the project plans and reports that might be generated during the course of confirmatory testing are as follows:

- A Sampling and Analysis Plan that provides specific details on the confirmatory testing policies, organization, objectives, and procedures to identify lead-based paint hazards reliably if they exist;
- Plans for health and safety, included within the Sampling and Analysis Plan, to establish procedures to protect field personnel, the general public, laboratory personnel, and the environment from routine or unforeseen hazards associated with testing;
- Routine field sampling and laboratory analysis progress reports to relate progress, problems, and plans;
- A final report on the results of the confirmatory testing including the interpretation of both XRF and laboratory data, and recommendations as to the existence of a lead-based paint hazard;
- Quality assurance audit reports if required;
- Routine QA reports to management as required and the
- Documentation of deviations from approved protocols and SOPs, and of corrective actions taken.

As stated in Section A-13.2.6, the Sampling and Analysis Plan should state the individuals who are responsible for producing and reviewing the reports, the distribution list for the reports, the persons with responsibility to take action on a given report, the frequency of reports, and a brief outline of the contents of each report.

A-13.3.8 References

Important references should be included in every Sampling and Analysis Plan. These references should include such items as appropriate Federal and State government regulations, as well as documentation of important field, laboratory, and statistical methods.

A-13.4 Laboratory Testing Associated With Abatement

After the completion of XRF and confirmatory laboratory testing, a decision will be made as to the need for lead-based paint abatement. In the event that abatement is required, additional field and laboratory testing may be required in association with the abatement process. As discussed in Chapter 6, this testing may be required as follows:

- Before abatement, PHAs may wish to conduct dust sampling outside of the abatement area so that pre-abatement samples exist for comparison against post-abatement samples to determine whether dust containment measures have been successful.
- During abatement, if high airborne lead levels are suspected or if workers' blood lead levels rise, then air monitoring for a worker exposure assessment should be conducted.
- After abatement, surface dust sampling must be performed to demonstrate compliance with applicable clearance criteria.

Prior to conducting any of these testing programs, a new Sampling and Analysis Plan should be prepared. The amount of detail supplied in the plan will depend on the size and complexity of testing. However, following this guidance for planning will ensure a uniform thought process in the development of all testing plans.

In several of the following sections, the guidance provided for the preparation of Sampling and Analysis Plans is quite similar to that already discussed in previous sections. In some cases, specific reference is made to the earlier sections, and any important differences in abatement testing are noted.

A-13.4.1 Planning and Design

This section should provide a summary of the testing program along with a detailed statement of the testing objectives and sampling design. Much of the discussion on general background, organizational structure, and project management may be similar to earlier material prepared for XRF testing (Section A-13.2.1) and confirmatory testing (Section A-13.2.2). Deviation differences, such as the organization of the abatement work itself, should be described. Also, a clear statement of the abatement testing objectives and sampling design, which are quite different from the earlier hazard identification testing objectives and design, should be made in this section.

For pre-abatement testing, the primary objective is to provide information on the condition, location, and extent of areas within the housing project that lie in close proximity to the areas being abated. Justification should be provided in this section for the number and location of surface wipe samples planned. The description of the sampling design should include diagrams showing the physical layout of the housing project and the exact locations at which samples will be collected. Procedures to ensure randomization in the selection of sampling locations should be discussed.

The primary objective for testing associated with air monitoring for worker protection is to determine the levels of lead present in airborne dust in the abatement areas, and to compare these levels with appropriate worker safety standards. These testing objectives can be stated in the form of a statistical hypothesis test and an appropriate sampling design can be developed. In any case, this section should provide justification for the locations and frequency of air samples to be collected. Appropriate diagrams should be included showing the locations of the air monitoring stations.

For post-abatement clearance testing, the primary testing objective is to determine whether the lead hazard has been eliminated in the abatement areas. Clearance testing may also include sampling to ensure that dust containment measures have been successful. Sampling for clearance testing will primarily be performed in surface dust. An appropriate sampling design and data interpretation strategy is discussed in Section 10.4. The appropriate design for each abated area should be described in this section of the Sampling and Analysis Plan along with appropriate diagrams showing sampling locations. Procedures to ensure randomization in the selection of sampling locations should also be discussed.

A-13.4.2 Field Sampling Equipment and Methods

Many of the important planning aspects pertaining to sampling equipment and methods have already been discussed in Section A-13.3.2, although that section focused on paint sampling methods such as scraping, rather than wipe sampling and air sampling methods.

Appropriate sampling SOPs, such as those that follow, should be discussed in this section of the Sampling Plan:

- Selection of sampling locations;
- Operation and maintenance of sampling equipment;
- Wipe and air sampling methods;
- Sample handling and shipping; and
- Documentation procedures.

Issues pertaining to sampling supplies and containers are discussed in Section A-13.3.2.3. The actual wipe sampling method for lead in dust is still under development. In cases where dust sampling is required, the Sampling and Analysis Plan should address the following topics:

- Wiping techniques;
- Standardization of any subjective observations that need to be recorded; and
- Description of situations for which the wipe procedure is inappropriate (e.g., carpet, exterior surfaces, or porous surfaces), and
- Field data documentation.

An SOP that details the field sampling procedure for collecting airborne dust may be required. This SOP should address the specific aspects of the project and the particular field operation and to personal monitoring. Issues that should be addressed in the Sampling and Analysis Plan are as follows:

- Operator training;
- Calibration requirements;
- Situations that require resampling (e.g., high ambient lead levels, filter clogs, failed post-sampling calibration, torn filters);
- Sampling schedule;
- Handling of the sample filters; and
- Field data documentation.

Issues concerning contamination avoidance, sample handling, and documentation that should be addressed in the Sampling and Analysis Plan are discussed in Sections A-13.3.2.5 and A-13.3.2.6.

A-13.4.3 Laboratory Analyses and Measurements

This section of the Sampling and Analysis Plan should discuss all important aspects of the preparation and chemical analysis of wipe or air samples in the laboratory. Although confirmatory testing and abatement testing may generate paint, wipe, or air filter samples that may require different sample preparation procedures, all of these samples are likely to be analyzed by either flame
atomic absorption, graphite furnace atomic absorption, or inductively coupled plasma emission spectroscopy. Even though each type of sample may have different dissolution procedures, the important planning aspects for testing with all of these samples are often the same.

All of the topics concerning laboratory analysis for abatement testing have already been described in Section A-13.3.3. Therefore, for guidance on the preparation of this section of a Sampling and Analysis Plan for abatement testing, the reader is referred to that section for guidance on preparing this health and safety portion of the Sampling and Analysis Plan for pre-abatement, worker protection, or clearance testing.

A-13.4.4 Health and Safety

Issues pertinent to health and safety for abatement testing have already been discussed in Section A-13.5. Therefore, the reader is referred to that section for guidance on preparing this health and safety portion of the Sampling and Analysis Plan for pre-abatement, worker protection, or clearance testing.

A-13.4.5 Data Processing and Analysis

The procedures that have been established for processing and interpreting the laboratory measurements for pre-abatement, worker protection, or clearance testing should be described in this section of the Sampling and Analysis Plan. General guidance on data interpretation for these testing programs is given in Chapters 6 and 10 of these guidelines. This section of the plan should take the general guidance and restate the specific details by which the laboratory testing results will be used to determine whether any lead hazard is present either in the airborne dust of units currently being abated, the surface dust of units previously abated, or in areas adjacent to abated units.

The Sampling and Analysis Plan should also state the procedures for processing and storing laboratory and other data. As discussed in Section A-13.3.5, small testing programs may not require extensive data management procedures. However, for larger and more complex programs, formal procedures should be established for handling and storing the data. More detailed data procedures are discussed in Section A-13.5.

A-13.4.6 Quality Assurance

Important quality assurance issues pertinent to abatement testing have already been discussed in Section A-13.3.6. These issues include the use of QC samples, the selection of laboratories with existing internal QA and QC procedures, the use of QC data, and the role of QA audits. Therefore, the reader is referred to that section for guidance on preparing this quality assurance portion of the Sampling and Analysis Plan for pre-abatement, worker protection, or clearance testing.

A-13.4.7 Reporting

A section on reporting should be included in every Sampling and Analysis Plan. Routine reporting requirements should be described along with an outline for the final report on testing. Some of the project plans and reports that might be required for abatement testing are discussed in Section A-13.7. That section also discusses the individuals responsible for producing, reviewing, distributing, and taking action on the reports. Therefore, the reader is referred to Section A-13.7 for guidance on preparing this reporting portion of the Sampling and Analysis Plan for pre-abatement, worker protection, or clearance testing.

A-13.4.8 References

Important references should be included in every Sampling and Analysis Plan. These references should include such items as appropriate Federal and State government regulations, as well as documentation of important field, laboratory, and statistical methods.

A-13.5 Data Systems for Large Testing Programs

The size and complexity of a testing program determines the amount and type of data to be generated. Whereas small programs may have few types of data and the data may be easily managed, larger or more complex programs may produce many types of data and require an intricate system for processing, analyzing, storing, retrieving, auditing, and managing the information.

A-13.5.1 Data Processing

This section of the Sampling and Analysis Plan should describe quality assurance procedures for the processing of reported data. Quality assurance procedures for raw data are described in Sections A-13.3 and A-13.6 of this appendix. Raw data are those values obtained from environmental sampling equipment in the field or from analysis procedures in the laboratory. The raw data are usually compiled into tables of reported data. The reported data might be in computer files or simply in handwritten hardcopy or typed tables. These reported data are then further processed and analyzed with statistical procedures. Many of the quality assurance procedures outlined in this section for reported data also apply to raw data.

The reported data usually go through several data processing steps, such as transfer and storage, before being interpreted statistically. The data interpretation step can involve data manipulations that require their own unique quality assurance procedures. Therefore, the requirements for data processing and data interpretation will be discussed separately.

A-13.5.1.1 Data Transfer

There are usually two ways in which data are transferred, either manually or electronically. Manual transfer of data might consist of keypunching data from a printed table of values into a computer data file. Electronic transfer of data typically involves using a computer program to read and write the reported data directly to and from magnetic tapes, magnetic disks, or punched cards.

When reported data will be manually transferred, the Sampling and Analysis Plan should specify the following:

• How the transfer will be accomplished;

• What measures will be taken to minimize and detect transcription errors (e.g., double keypunching of the data, visual inspection of the new data files, and range checks of the new data).

When data will be electronically transferred, it is advisable that the plan specify what computer programs will be used and how the data transfer will be verified including the following:

• Discussion of the software used and how the verification steps will be documented.

• Discussion of how the software used in the data transfer will be permanently saved along with the data files (see Section A-13.5.2).

A-13.5.1.2 Storage of Reported Data

The reported data arrive from the field or laboratory, either manually or electronically, via magnetic tapes or disks, punched cards, printed sheets, or some other medium. The reported data should be permanently stored, as received from the field or laboratory, to provide a link between the sampling and measurement processes and the data analysis. A well-written Sampling and Analysis Plan will specify how the reported data will be permanently stored and documented. Data storage considerations that should be addressed include the following:

• Location where the data will be stored;

• Means by which the data will be stored (e.g., magnetic tape or disk);

• Length of time for which the data will be stored (e.g., EPA-Good Laboratory Practice regulations stipulate a period of 5 years from the date the study results are submitted); and

• Retrieval system for the data. In addition a discussion of how data security will be maintained.

If the reported data arrive on magnetic tapes or disks, then printed listings, punched cards, or other hard copy output may need to be generated to accompany each computer file for long-term storage.

A-13.5.1.3 Data Manipulation

In this section of the Sampling and Analysis Plan describe any computer software used and any data manipulations that will be carried out on the master files of reported data. These manipulations might include the following:

• Creation of additional data files from the master files of reported data. Additional files might be formed by subsetting data in the master files, or by pooling data from several master files.
• Creation of new variables from the original variables in the master files.
• Transformation of variables. It is sometimes necessary to transform data before further analysis. For example, a logarithmic transformation might be applied to data that are modeled with a lognormal distribution.

In addition to describing the data manipulations that are carried out, the Sampling and Analysis Plan should include an outline of the verification methods for each data manipulation that is to be performed. When generating new data files, the quality assurance requirements are similar to those for the electronic transfer of data (see Section A-13.5.1.1). Also, the investigator will want to discuss how the new data files will be verified, how the computer software used will be documented, and how the data files and software will be permanently stored. In the case of the other two types of data manipulations (i.e., creation of new variables and transformation of variables) carried out by computer, verification involves hand calculating a subset of the specified data manipulations.

A-13.5.2 Data Interpretation
After the reported data have been transferred and processed into computer data files and stored, they can be examined with statistical procedures to see whether or not they support the hypotheses that are being tested. Statistical procedures are used to display the data, to support or refute the working hypotheses, and to provide estimates of key model parameters (e.g., means, medians, and rates).

A-13.5.2.1 Statistical Procedures
The Sampling and Analysis Plan should include a list of the statistical analyses that will be performed. Also, consider including in the list the following items:
- Description of how the data will be summarized and the rationale for the techniques that are selected.
- Discussion of the estimation and hypothesis testing methods that will be used. If these methods are different from those discussed in these guidelines, then appropriate sources in the literature should be referenced that support the methods.
- Discussion of the statistical model assumptions and the steps built into the study protocol to support those assumptions. For example, if the model assumes that the data are normally distributed, then describe how this assumption will be tested. Document the need for any required data transformations.
- Discussion of how the inferences drawn from the results of the statistical procedures will meet the project objectives.

A-13.5.2.2 Computational Procedures
It is suggested that the Sampling and Analysis Plan list the important computational procedures that will be performed. In addition, it is wise to include a description of the computational software that will be used to calculate summary statistics and parameter estimates. All important computer programs are to be permanently stored along with the records of the particular data files that were used as input to the programs (see Section A-13.5.1.2). Also, discuss the management and verification steps. Computer calculations should be routinely checked and results verified. Similarly, if hand calculations will be done for important parameter estimates or hypothesis tests, discuss how these calculations will be verified and documented.

A-13.5.2.3 Data Displays
The Sampling and Analysis Plan should list the important data displays, such as diagrams, charts, tables, and graphs, that will be used. Describe the units of measure that will be used to report the data and how the raw data will be reported in a concise, compact format (i.e., a tabular format is preferred).

Also, if appropriate, include a description of how the data displays will be stored along with the records of the data files and the programs from which they were created. Most computer operating systems support a directory structure that allows data files, program files, and associated data files to be stored together in an organized hierarchical manner. The hierarchical structure facilitates data retrieval by storing in the same location (with similar names) all files generated for a specific project.

A-13.5.3 Data Tracking System
Final data must be readily traceable to original data. It must be possible to trace the data in any final display through the various processing and analysis steps, such as subsetting, aggregation, and transformations, back to the original reported data tables or even to the original field and laboratory samples. If an adequate tracking system is established, it should be possible to identify sources of error that affect the data at any stage of the processing and analysis. The Sampling and Analysis Plan should describe the data tracking system that will be established for the program. Summarize the records that will be kept at the various data processing and analysis steps. These corrective actions (corrective actions) to be implemented if a problem is discovered. Be sure that this description outlines, in detail, the chain of events that will be set in motion if any sample data are found unaccounted for or are identified as outlier data during data processing and analysis. These corrective actions should be made an integral part of the data tracking system design.

A-13.5.4 Quality Assurance Audits
An audit is the qualitative evaluation of all components that comprise the lead testing program. There are three types of general audits: system audits, performance audits, and data audits. Each type of audit is conducted on each phase of the program as required by the quality assurance standard written for each phase.

A-13.5.4.1 System Audit
The system audit is the evaluation of the components of the data gathering and management systems. The system audit assesses the design of the system to ensure the quality assurance standard for the program. This evaluation is accomplished using the written documents for the project—methods, procedures, protocols, and the Sampling and Analysis Plan.

A-13.5.4.1.1 Field System Audit
The overall operation of any study depends on the organization of the management system and the personnel assigned to conduct the study. The field management is responsible for the implementation and organization of the study and is, therefore, responsible for the policies, protocols, and procedures under which the study is conducted.

The field system audits must be a critical review of the management system and personnel involved in the study. The credentials and experience of personnel conducting the study are reviewed and compared with the requirements of the current study. Management must ensure that the educational standards and formal training have been implemented as part of the personnel involved in the study. The system audit evaluates the management system to ensure the system is performing as it was designed.

The calibration and maintenance of the equipment used in the field for critical measurements is an integral part of any study. The system audit must evaluate the records for the maintenance and calibration of all field equipment required for making critical field measurements. The audit must include a review of the protocols and SOPs for the study.

Field records are the raw data from field operations and, as such, are an integral part of a system audit for the field operations. The audit of the field records ensures that all requirements in the field Sampling and Analysis Plan have been fulfilled, that complete records exist for each field activity, and that the procedures and protocols specified in the plan have been implemented.
An emphasis on the documentation will help to ensure sample integrity and that technical information will be available to recreate the field events. The term "field event" is defined as an analytical performance test conducted in the laboratory by the laboratory QA Officer. A performance audit is used to determine the performance of the analytical system on unknown samples. The performance audit samples are typically submitted to the laboratory as blind samples by an independent source. The results are compared with the predetermined acceptance limits set in the Sampling and Analysis Plan. Performance samples may be submitted to the laboratory by the laboratory QA Officer or an appropriate management designee as part of an internal assessment. Records of all performance audit samples must be maintained by the laboratory. Problems identified as a result of a performance audit must be investigated and corrected.

A-13.5.4.2 Performance Audit

A performance audit is an evaluation of the data generation activities. The data generated for the performance of a measurement system must be traceable from the raw data to the receipt of the samples from the field. The data audit is conducted to show compliance with the Sampling and Analysis Plan and the sampling SOPs.

The data audit occurs in two phases. In the first phase, the field records and analytical data are audited to determine the accuracy and defensibility of the data. In the second phase, the data are evaluated with respect to the data quality objectives of the study.

The data audit includes all of the raw data collected during the field activities. The raw data include the laboratory and field data. The laboratory data must include all of the raw data collected during the analytical activities. The raw data include the laboratory preparation and extraction records, the instrument maintenance and calibration records, and the analytical data. The data audit samples and data reports must be reviewed during the data audit and the analytical data must be traceable from the data reports back through the raw data to the receipt of the samples from the field. The data audit is conducted to show compliance with the Sampling and Analysis Plan and the sampling SOPs.

The combined field and laboratory data are subject to a final assessment to determine if the data quality objectives are met.

The data audit is an evaluation of the quality assessment process. The field assessment process is an evaluation of the field duplicate results to indicate the representativeness of the samples. The laboratory assessment process also includes a comparison of the analytical results for all field blanks, trip blanks, and equipment rinsates with the raw data set to provide information on the background levels.
introduced during sampling or shipping. The data audit evaluates the basis of the analytical method. The data audit must provide a comparison of precision, bias, completeness, representativeness, and defensibility of the data generated with that required to meet the data quality objectives.

A-13.5.4.4 Audit Responsibility, Results, and Remedial Action

The QA program provides for the routine evaluation of the effectiveness of field and laboratory QA/QC procedures and conformance of the procedures. The Sampling and Analysis Plan describes all of the steps in the implementation of QA/QC requirements, and the individuals with the responsibility and authority to complete each step. The Sampling and Analysis Plan must specify all of the parties responsible for the system, performance, and data audits. It must specify the results that will be generated by the system, performance, and data audits. The plan also must specify the system in which those results will be communicated to the organization and to the Project Officer. The Sampling and Analysis Plan shall describe the remedies for deficiencies in the sampling and analysis procedures identified by the system, performance, and data audits.

A-13.8 Notes on the Preparation of Sampling and Analysis Plans

Sampling and Analysis Plans should be written according to the outline used in this guidance appendix and as summarized in Figure A-13.1. It is advisable that each section be covered in any sample and analysis procedure, and the individuals with the responsibility and authority to complete each step. A signature page should be included with each Sampling and Analysis Plan. Issues that are not important to a particular program should be so indicated by stating "Not Applicable" under the appropriate section headings.

A-13.9 References

Important references should be included in every Sampling and Analysis Plan. These references should include appropriate Federal and State government regulations, as well as documentation of important field, laboratory, and statistical methods. For example, the following are potentially useful references for this appendix.


Appendix 14—Instructions on Integrating LBP into the Comprehensive Improvement Assistance Program

1.0 Introduction

1.1 Purpose. This document provides instructions, guidance and processing procedures for use by HUD Field and Regional Offices, Public Housing Agencies (PHAs) including Housing Authorities (IHAs), and other participants involved in the improvement of public housing developments which may contain lead-based paint (LBP). It is intended to be used in conjunction with the LBP Guidelines, refer to the Housing and Community Development Handbook 7485.1 REV-4 (December 20, 1989). PHAs applying for or for receiving CPAP funds are required to follow all requirements outlined in the LBP Guidelines which are statutory or regulatory. The LBP Guidelines provide assistance to PHAs in carrying out the provisions of the Lead-Paint Poisoning Prevention Act (LBPPPA), as amended and HUD's implementing regulation (dated June 6, 1989). The LBP Guidelines have been prepared for use by PHAs when the plans to or is engaged in LBP testing and abatement. None of the procedures outlined in the Guidelines are mandatory except where the Guidelines cite statutory or regulatory requirements.

1.2 Applicability.

a. This document applies to PHA-owned and -occupied lower income public housing family developments, including Leased Housing Bond-Financed family developments, and to Section 23 Leased Housing Non-Bond-Financed family developments which were built or substantially rehabilitated prior to 1978. All references in this document shall apply to PHAs.

b. This document does not apply to developments under the Section 23 Leased Housing Non-Bond-Financed Program, the Section 496 Leased Housing Program, the Section 23 and Section 8 Housing Assistance Payment Programs. It does not apply to PHA-owned lower income public housing developments for elderly or handicapped, except for any dwelling unit in such housing in which any child who is less than seven years of age resides or is expected to reside.

1.3 Statutory and Regulatory Requirements.

Section 302 of the LBPPPA, as added, requires the Secretary of Housing and Urban Development to eliminate, as far as practicable, the hazards of LBP poisoning with respect to any existing housing which may contain lead and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary. Section 306 of the Housing and Community Development Act of 1987 (P.L. 100-203) amended Section 302 of the Act by changing the definition of an immediate LBP hazard to include acc暂缓able, intact, and non-intact interior and exterior painted surfaces that may contain lead in HUD-assessed housing in which a child under age 7 lives or is expected to live, and instructed HUD to base its detection and abatement criteria on the condition of the housing not on the health of the residents of the housing. The LBPPPA, as amended requires PHAs to conduct random sampling of its units and common area to identify LBP hazards as defined, and requires the PHA to abate those hazards when found. Section 1086 of the Stewart B. McKinney Homeless Assistance Amendments Act subsequently made additional inspection and abatement requirements. See Section 1.3. of the Guidelines.

2.0 LBP Activities for CIAP and Development/Major Reconstruction of Obsolete Projects (MROPJ Approved before Federal Fiscal Year (FFY) 1990.

2.1 For PHAs that have awarded any construction contract (including A&E contracts) or on before April 1, 1990, the PHA shall continue with the contract as originally awarded. Where feasible, PHAs should incorporate the recommendations outlined in the LBP Guidelines into their rehabilitation plans.

2.2 For PHAs that plan to advertise for or receive or award a construction contract (including A&E contracts), or plans to start construction work, after April 1, 1990, the PHA must follow the LBPPPA and those parts of the LBP Guidelines which are statutory or regulatory. It is strongly recommended that the PHA incorporate the recommendations outlined in the LBP Guidelines.

2.3 Procedures regarding additional funding:

a. For comprehensive modernization contracts or force account work which are modified to incorporate the recommendations outlined in the LBP Guidelines, refer to paragraph 3-19 of the CIAP Handbook: 7450.1 REV-4.

b. For special purpose and homeownership modernization contracts or force account
work which are modified to incorporate the recommendations outlined in the LBP Guidelines, additional funding may be provided to the same modernization type in a subsequent fiscal year.

c. For development and MROP contracts which are modified to incorporate the recommendations outlined in the LBP Guidelines and Handbook 7485.1 REV-4, Public Housing Development Handbook.

2.4 Time Extensions: The PHA may request, and HUD may approve, a time extension of up to five years, to the obligation deadline, as set forth in its originally approved Project Implementation Schedule, based on a valid reason; i.e., delay relating to LBP testing and abatement. (Refer to paragraph 10-8 of the PHA is required to address the testing and abatement requirements of the LBP Guidelines to understand how to incorporate the recommendations outlined in the LBP Guidelines.)

2.5 LBP Activities for CIAP and Development/MROP-Approved During and After FFY 1990. Comprehensive, special purpose, homeownership and LBP modernization projects, which are approved during and after FFY 1990, are strongly encouraged to incorporate the recommendations outlined in the LBP Guidelines to improve the health, safety, and quality of the housing stock.

2.6 All PHAs which have not complied with the testing and abatement requirements of the LBP Guidelines, as amended, and HUD’s implementing regulations, 24 CFR Parts 30, 905 Subpart H and 968 are required by 1994, to randomly inspect their public housing projects. (See 24 CFR 908.9.) The PHA shall refer to Chapter 4 of the LBP Guidelines to understand how to determine the presence of LBP at hazardous levels. Inspections shall be prioritized within the next five years on the basis of age of the housing and condition of the housing. (See Chapter 2 of the LBP Guidelines for other requirements which can be addressed by the PHA in planning LBP testing and abatement).

3.0 Planning Ready: Preparing for Submission of a CIAP Application Which Contains LBP Activities. LBP testing, abatement, and all other activities relating to the recommendations outlined in the LBP Guidelines and Handbook 7485.1 REV-4 are considered eligible work items within a CIAP Application. Since LBP activities are physical improvements, the PHA is required to follow all requirements and procedures outlined in the CIAP Handbook 7485.1 REV-4. When applying for CIAP funds, the PHA must provide a mechanism by which timely consideration of physical improvement requirements can be addressed. Since LBP is a physical improvement relating to health and safety, it shall be included in the CPM and five-year funding request plan. Random testing should be accomplished for the developments proposed for the five-year funding year basis. Failure to include LBP testing and abatement in conjunction with other modernization needs will inevitability result in loss of cost-effectiveness associated with CIAP. To consider modernization in isolation from LBP testing and abatement will result in duplication of effort and excessive costs.

3.1 Comprehensive Approach. The PHA should consider the development proposed for comprehensive, special purpose, homeownership or LBP modernization as not having LBP hazards and proceed with its CIAP Application development. No further testing is required.

3.2 CIAP/LBP Development. The following information is to be utilized in conjunction with the CIAP Application:

- Process outlined in the CIAP Application
- Handbook 7485.1 REV-4. When a PHA is developing its CIAP Application and when the Field Office is reviewing and processing the PHA’s request for CIAP funding, the following information should be used as a checklist to assure that LBP activities have been addressed properly in the CIAP Application.

a. Consultation/Local Officials: As with all CIAP Applications, consultation with residents is required. It is recommended that the PHA explain that the project may contain LBP, the hazards of LBP, and the PHA proposes to address the issue if it is found. (See paragraph 3-4 and Chapter 5 of the CIAP Handbook 7485.1 REV-4.)

b. Consultation with Local Officials: As part of the local consultation required in paragraph 3-4 of the CIAP Handbook 7485.1 REV-4, the PHA also should contact the local health department to request information on whether any child under seven years of age living in PHA-owned units has been identified as having an elevated blood lead (EBL) level. Testing, abatement, and other related activities for units identified as housing a child with an EBL are categorized as Group 1 emergency work items in a CIAP Application. The PHA also should check at this point for any State and/or local requirements regarding LBP. See the LBP Guidelines, Appendix 1 for a Summary of State and local requirements, and Appendix 2 for the Childhood Lead Poisoning Prevention Program Directory.

c. Random Sampling: The PHA shall conduct a random sampling of units in the developments proposed for modernization, as required in 24 CFR Part 968. The PHA should use the testing procedures outlined in Chapter 4 of the LBP Guidelines in paragraph 1.2 for applicability and paragraph 3.6 for funding.

d. Further Testing. Further testing may be needed to determine where specifically lead is in fact present in a project. As discussed in Chapter 4 of the LBP Guidelines, the goal of random sampling is to determine whether LBP hazards exist and if so, does it exist on specific building components only. A positive result during random sampling indicates that further testing may be needed as outlined in Chapter 4 of the LBP Guidelines. It is recommended that any further testing be accomplished prior to application approval. If it cannot be performed, prior to approval, it shall be carried out prior to the development of plans and specifications.

3.3 Obtaining the information from the local health department and the results of the random sampling and further testing:

a. If no child has been identified as having an EBL and the random sampling or further testing (when indicated) are negative as defined in the LBP Guidelines, then the PHA should consider the development proposed for comprehensive, special purpose, homeownership or LBP modernization as not having LBP hazards and proceed with its CIAP Application.

b. If an EBL child is identified and/or the random sampling or further testing results are positive, then the PHA shall take the necessary actions to plan and implement LBP abatement (See 24 CFR Part 968).

d. When LBP abatement is to be a part of the modernization of a development, the PHA should develop a LBP Activity Plan as outlined in paragraph 3.4 of the LBP Guidelines.

3.4 Timing of the Development of the LBP Activity Plan (LBAPP). The PHA should decide whether it has the in-house capability to develop the necessary LBAPP or whether it needs the services of an outside Architect/Engineer (A/E). Whether the PHA develops the LBAPP in-house or hires a contractor, the PHA may:

a. Develop its LBAPP, including cost estimates, prior to submission of the CIAP Application or
b. Develop its LBAPP, including cost estimates after submission of the CIAP Application, but before Joint Review; or
c. Develop its LBAPP, after approval of the CIAP Application.

Note: If the PHA chooses to develop its LBAPP, after CIAP Application approval, the PHA should, at a minimum, include preliminary cost estimates in the application, based on the testing results. All costs related to the preparation of such a plan are eligible for funding by HUD as Planning Costs if incurred before application approval or as Administrative Costs if incurred after application approval.

3.6 Planning Costs. Planning costs are costs incurred before comprehensive, special purpose, homeownership, or LBAPP modernization program approval. Planning costs necessary to develop the LBAPP before CIAP Application submission or before Joint Review are eligible CIAP costs. These costs may be reimbursed prior to application approval where the Regional and Field Office determine that the PHA does not have the staff or financial resources to assume these additional responsibilities or costs. Refer to paragraph 2-6 of the CIAP Handbook 7485.1 REV-4 for additional instructions and requirements. To conduct testing for the presence of lead in paint and to prepare the LBAPP as appropriate before CIAP Application submission, the PHA may:
a. use its operating funds or reserves to develop its plans and application with possible reimbursement as discussed above; or
b. with prior HUD approval, reprogram unsubsidized funds from an approved on-going modernization program.

c. For FY 1990, the PHA may revise its previously submitted application to accommodate the provisions of the Guidelines.

3.4.2 If the PHA is a financially distressed PHA, as defined in paragraph 1-3 of the CIAP Handbook 7485.1 REV-4, it may request and receive approval from the Federal Office for up-front funding of planning costs as a separate modernization project, where testing and the development of the LBAP and the CIAP Application would otherwise present an undue financial hardship. Refer to paragraph 3.4(c) of the CIAP Handbook 7485.1 REV-4 for instructions and requirements.

3.7 Administrative Costs. Administrative costs are costs incurred after comprehensive, special purpose, homeownership, or LBP modernization approval. To conduct testing for the presence of lead in paint and to prepare the LBAP after application approval, the PHA shall estimate the cost prior to approval and incur such expenses after approval. Administrative costs necessary to develop and carry out the required testing and abatement are eligible CIAP costs. Refer to paragraph 2-7 of the CIAP Handbook 7485.1 REV-4 for additional instructions and requirements.

4.0 Contents of the LBAP.

The Lead-Based Paint Abatement Plan is the working document which should be used by the PHA to guide its entire LBP abatement efforts in a project(s). The LBP Abatement Plan is an internal PHA document and is not subject to HUD approval. It is strongly recommended, however, that the PHA assure that the plan is thorough and that the quality is exemplary since the plan will serve as the foundation for all LBP abatement work undertaken by the PHA. To accomplish this, it is recommended that the PHA incorporate the recommendations outlined in the LBP Guidelines into its LBP abatement plan.

a. A Resident Relocation Plan. This plan should describe in detail when and how residents will be temporarily relocated during the abatement and modernization of the development. 24 CFR Part 968 requires the PHA to relocate residents with children and pregnant women, when debris, fumes or dust are generated during the abatement process. (See Temporary Relocation of Residents, Attachment 14.1 and paragraph 2-4 of the CIAP Handbook 7485.1 REV-4 for details and instructions.) Note: The Uniform Relocation Assistance and Real Property Acquisition Policy Act is applicable.

An Abatement Plan. This plan should describe in detail how the PHA plans to conduct interior and exterior LBP abatement within a development. The LBP Guidelines provide strategies for the development of this plan. The abatement plan may include a provision for a pilot abatement project consisting of a selected number of units prior to the full-scale abatement. (See Section 6.3.2 of the LBP Guidelines.) It should include:

1. A Worker Protection Plan. This plan should explain the most effective ways to minimize exposure through the use of good work practices and engineering controls. (See Chapter 8 of the LBP Guidelines.)

2. A Cleanup Plan. This plan should describe in detail the types of LBP debris which will be generated from specific abatement methods and how this debris will be disposed of in a safe and legal manner according to local, State and federal laws. 24 CFR Part 905 requires PHAs to dispose of LBP debris in accordance with applicable Federal, State or Local requirements. (See Chapter 11 of the LBP Guidelines.)

3. A Decontamination Plan. This plan should explain in detail the types of LBP debris which will be generated from specific abatement methods and how this debris will be disposed of in a safe and legal manner according to local, State and federal laws. 24 CFR Part 905 requires PHAs to dispose of LBP debris in accordance with applicable Federal, State or Local requirements. (See Chapter 10 of the LBP Guidelines.)

4. A Disposal Plan. This plan should describe in detail the types of LBP debris which will be generated from specific abatement methods and how this debris will be disposed of in a safe and legal manner according to local, State and federal laws. 24 CFR Part 905 requires PHAs to dispose of LBP debris in accordance with applicable Federal, State or Local requirements. (See Chapter 10 of the LBP Guidelines.)

5.0 Needs Assessment. In determining the total needs to be included in the CIAP Application, both physical and managerial (see paragraph 3-156 of the CIAP Handbook 7485.1 REV-4), the PHA shall assure that testing and abatement are included in that assessment. 24 CFR Part 906 requires a detailed comprehensive assessment of the total physical and management needs of the developments proposed for CIAP in the current FY.

6.0 Contingency Plans. As indicated previously, this document supplements the requirements outlined in the CIAP Handbook 7485.1 REV-4. Therefore, the factors noted below shall be included in addition to the requirements cited in that Handbook.

a. Results of LBP testing.

b. Organization and Staffing Plan. Along with other modernization staffing needs, it is recommended that the PHA include the services of a qualified LBP Coordinator. This person would be responsible for overseeing all the LBP work of the particular development to be modernized including random and further testing, on-site monitoring for worker protection, abatement specification compliance, LBP debris disposal compliance, LBP debris cleanup and final clearance testing.

c. Comprehensive Assessment/Program Budget. Parts i and ii) shall assure that in addition to other work items, LBP testing and abatement activities are addressed.

d. Compliance with Federal, State/local requirements regarding LBP. See paragraph 6-5 of the CIAP Handbook 7485.1 REV-4.

e. PHA Insurance. The PHA shall have the type of insurance which covers exposures created by the modernization activities, (i.e., Insurance. (Refer to paragraphs 8-10 a, b, and c of the CIAP Handbook 7485.1 REV-4.)

f. Contractor Insurance. The contractor shall have the required insurance which covers all operations under the

7.0 After Approval of CIAP Application. As the PHA considers the need for an A/E for its rehabilitation work, it should also consider whether that A/E has the ability to develop plans and specifications which will address LBP abatement and other related activities. When A/E services are sought through Request for Proposals (RFPs), the PHA should include the recommended contractor qualifications needed for planning all LBP activities as indicated in LBP Guidelines. (Refer to paragraphs 8-2 of the CIAP Handbook 7485.4 REV-4 for additional requirements and for PHA evaluation of submitted proposals.) The PHA must assure that the rehabilitation plans and specifications include LBP abatement. See Appendix 14.2 for an example of a Request for Proposal for LBP services.

8.0 After Approval of CIAP Application. 8.1 Procurement and Contract Administration. Each PHA must determine on a case-by-case basis the most efficient approach towards procurement and contract administration as it relates to LBP. 8.2 Construction and Bid Documents.

a. Bid Preparation. In addition to all other requirements in paragraph 9-4 of the CIAP Handbook 7485.1 REV-4, the PHA must assure that the bid documents contain a clear warning of the existence of LBP hazards and the scope of work required for abatement and related activities. The scope of work should include, but not be limited to, worker protection, abatement methods to be employed, cleanup, disposal requirements, and final reoccupancy clearance testing. (See Appendix 14.3 for examples of Specifications for Different Abatement Strategies and Appendix 14.4 for an example of an Addendum to an Existing Document, Specifications, Proposal Contract and Bond, which incorporates LBP abatement activities into comprehensive modernization.)

b. When modernization work (i.e., LBP abatement) are to be performed on 10 or more units, the PHA should include a provision in its construction contract and bid documents which will allow for modifications based on information learned from LBP abatement project. (See Chapter 6, paragraph 6.3.2 of the LBP Guidelines for a discussion on pilot abatement projects.)

c. If a pilot abatement project is performed, and the PHA determines that specific LBP activities (i.e., worker protection, hazardous waste disposal, etc.) are not necessary, then the contract should be amended. However, if the pilot project indicates that all activities outlined in the LBP Guidelines are necessary, then the construction and bid documents as originally agreed upon shall stand.

d. Where practicable, LBP abatement and clearance testing should be performed prior to starting other modernization work. (See Chapter 8 of the LBP Guidelines for a discussion on coordinating LBP abatement with other modernization work.) This should be spelled out in the construction and bid documents. The approach taken is obviously contingent upon specific PHA circumstances.
In any event, the Abatement Plan sets forth a recommended strategy.

8.3 All Instructions to Bidders shall include the requirement that any contractor awarded a contract for modernization shall comply with 24 CFR Part 35, prohibiting the use of lead-based paint. (Refer to paragraph 9-4c of the CIAP Handbook 7485.1 REV-4.)

8.4 Pilot LBP Abatement Projects

a. In the event circumstances it may be appropriate to develop a pilot abatement project. The purpose of the pilot project is to set aside typical units to evaluate: (1) continued need for work protection; (2) whether clearance criteria can be reached using a particular abatement method; and (3) the number of "clearings" which must be performed in order to meet clearance criteria. (LBP Guidelines, Chapter 6). The results of the pilot abatement project will allow the PHA to select the abatement methods which are most effective when considered in conjunction with other comprehensive modernization projects.

b. For developments containing fewer than 100 units, no more than five model units may be set aside. For projects containing more than 100 units, no more than ten units may be set aside. If a pilot abatement project is to be performed, the costs shall be included in all budget estimates. All units used in pilot abatement projects should meet the clearance criteria as described in the LBP Guidelines, Chapter 1. Prior to proceeding with full development abatement.

c. Tasks that should be included in the Pilot Abatement Project:

   (1) Preparation of plans and specifications in accordance with LBP Guidelines and the LBAP.
   (2) Provision of on-site inspections and daily activity reports.
   (3) Preparation of program evaluation summary, which includes:
      - Adherence to all steps outlined in the LBP Guidelines and the LBAP.
      - Practicality of method(s) used.
      - Need to modify the originally proposed abatement strategies—keeping in mind cost considerations.
      - Relationship of the abatement to other modernization work (task scheduling).
   (4) Final clearance testing.

8.5 Selecting a qualified LBP Abatement Contractor. The LBP Abatement Contractor should demonstrate knowledge of:

   a. Worker protection;
   b. Abatement methods prescribed in the contract;
   c. Cleanup procedures;
   d. Waste disposal requirements;
   e. Recordkeeping;
   f. Insurance and liability requirements;
   g. Federal, State/Local codes and regulations; and
   h. Resident Relocation

8.6 Relocation. 24 CFR Part 905 requires relocation of residents during LBP abatement activities.

8.7 Worker Protection. All workers employed in the abatement of lead based paint should be trained and protected in accordance with the provisions discussed in Chapter 8 of the LBP Guidelines. Worker protection is the responsibility of the contractor. The PHA must consider the need for worker protection, then estimating modernization costs at the time of CIAP Application development and shall assure that such requirements are set forth in the bid documents. When LBP abatement is performed using force account, the PHA should also adhere to the provisions outlined in Chapter 8 of the LBP Guidelines.

8.8 Resident/Employee Education. It is recommended that the PHA arrange for workshops with both PHA employees and residents to discuss the proposed LBP abatement. The State or local Public Health Agency may assist in conducting these workshops. (See Appendix 2 to the LBP Guidelines for a listing of Lead Poisoning Prevention Programs.) These workshops should take place prior to application submission as discussed in paragraph 3.2a as well as during and after abatement. They should discuss at a minimum the following:

   - Hazards of lead;
   - Sources of lead poisoning, especially for children under the age of 6 and women of childbearing age;
   - Who is at risk for lead poisoning;
   - Where blood lead testing can be obtained; and
   - Activities that will take place before, during, and after the abatement.

All costs related to this activity are eligible CIAP costs.

8.9 Reporting Requirements. In addition to the reporting required in Handbook 7485.1 REV-4, the PHA shall provide testing and abatement certifications. See Attachment IV for Certification Forms. The PHA shall certify that all LBP requirements will be met and that they have been met in accordance with all State/Local and Federal requirements as required by 24 CFR 905. (Information collection requirements approved under OMB number 2577-0090.)

8.10 Monitoring and Evaluation of LBP Abatement Activities. The PHA shall monitor LBP testing and abatement activities to ensure that the plans and specifications, set forth in the contract, are followed. The PHA shall evaluate its LBP activities to assure that the most practical and cost-effective methods were employed and that all the actions taken were necessary and appropriate for the particular developments being modernized.

Appendix 14.1—Lead-Based Paint Abatement: Temporary Relocation of Residents

1.0 Introduction

When a leaded surface is broken during rehabilitation or abatement, under most circumstances residents and their belongings must be protected. Depending on the scope of the rehabilitation or abatement and the method used to abate, residents may have to temporarily moved out of their units into a day room facility, or relocated into other decent, safe and sanitary housing. The PHA may have to vacate tenants unit-by-unit, floor-by-floor, wing-by-wing, or building by building.

When relocation of residents is necessary, the PHA should consider accumulating a number of units to be used as transient units during LBP abatement.

2.0 Requirements

A formal request to the HUD Area Office will be required to vacate units and to exclude them from the PHA vacancy reports. These units will remain vacant for reporting purposes throughout the period of the LBP abatement activities or the completion of the modernization program. These units/buildings become transient quarters and may take several months to empty. When necessary, the PHA may offer temporary or permanent transfer of residents to other communities. (Refer to paragraph 6-7 of the CIAP Handbook 7485.1 REV-4 and Notice (PHA), issued June 23, 1989).

2.1 Temporary Move

The PHA is required to provide temporary housing which is decent, safe and sanitary at comparable cost on a nondiscriminatory basis for families or individuals who are moved temporarily and then returned to the development.

a. Written Notice

As soon as possible, the PHA is required to provide written notice to each affected family or individuals that they will be moved temporarily.

b. Temporary Housing

When it is necessary to temporarily house families or individuals in units other than public housing, rents paid by the PHA shall not exceed Section 8 Existing Fair Market Renter unless payment is made by the Field Office. The rent paid by the family or an individual shall remain the same. When a public housing unit is vacated, the family or individual must agree to move into the unit or assistance shall terminate.

c. Direct Payment or Reimbursement

The PHA shall either (1) undertake the move itself, using force account labor or a moving company, and therefore be directly responsible for all moving and incidental costs; or (2) reimburse families or individuals for all actual reasonable moving and incidental costs. In the latter case, the PHA shall not make fixed payments since such payments are not representative of actual reasonable costs.

d. Incidental Costs

Inocidental costs may include utility deposits and telephne installation at the temporary housing, and in the newly rehabilitated project if the family or individual previously had or paid for these services. If the newly rehabilitated project now has tenant-purchased rather than PHA furnished utilities, which require utility deposits, the PHA shall not pay for the new utility deposits since they are required to be paid by any tenant currently living in a project which is being converted to tenant-purchased utilities or by any new tenant moving into such project.

2.2 Involuntary Permanent Moves (Displacement)

The PHA is required to provide comparable replacement housing on a nondiscriminatory basis for families or individuals who are moved permanently and then returned to the development.
basis to families or individuals who are displaced (involuntary permanent moves). Some families, including those originally occupying units in transient units may become displaced. Displaced means an involuntary permanent move from one development to another due to CIAP-funded rehabilitation or demolition activities. A family or individual who is moved permanently from a development due to CIAP-funded activities and is not offered the opportunity to return to the same development at the same site is a “displaced person.”

a. Relocation Notices

As soon as feasible, the PHA shall furnish the family or individual to be displaced with a written notice informing them of the planned move and their eligibility for relocation assistance. The notice should include a general description of the PHA’s relocation program. In addition, the PHA shall provide 90 days advance written notice of the earliest date by which the family or individual may be required to move. Refer to 24.303.

b. Comparable Replacement Housing

The PHA shall not require any family or tenant to move unless at least one (where possible, three or more) comparable replacement dwelling, as defined in 24 CFR 24.2(d), is made available at least 90 days before the required move. Refer to 24 CFR 24.204. If the comparable replacement dwelling is not public housing, the PHA shall contact the Field Office for advice on the Uniform Relocation Act (URA) replacement housing payment requirements.

c. Relocation Planning

The PHA shall begin relocation planning as soon as possible to minimize the adverse impacts of displacement. Such planning shall include a study and match of the family characteristics of the families to be displaced with the inventory of comparable replacement dwellings. The PHA shall provide relocation assistance advisory services, as required in 24 CFR 24.205(c). Refer to 24 CFR 24.205.

d. Direct Payment or Reimbursement of Moving Expenses

1. The PHA may, at its discretion, elect to perform the move itself, using force account labor or a moving company, at no cost to the family being displaced. In such case, the family or individual also is entitled to a moving expense and dislocation allowance of $50.

2. If the PHA does not elect to perform the move itself, the family or individual shall have the option to either pay their own actual reasonable moving and related expenses (see 49 CFR 24.301) or the applicable fixed moving expense and dislocation allowance, as required in 49 CFR 24.302 and indicated on the schedule in Appendix 2.

3.0 Momentary Unit Vacancy

The scope of work may not require tenant relocation for a momentary shelter while minor abatement work and subsequent cleanup can be completed by the end of the work day. Minor abatement work would include such work items such as installation of smoke detectors.

Momentry work vacancy should be considered when abatement can be completed in one working day, and the abatement does not include scraping, sanding or other types of abrasive methods which generate significant dust. Tenants may return to their units only after the unit has been thoroughly cleaned using a high efficiency particle air (HEPA) vacuum cleaner, a phosphate washing, and another HEPA vacuuming. (Refer to Chapter 11 of the LBP Guidelines, for additional information.)

When minor abatement work takes place, a day room facility with a lounge and eating area should be provided for a family or individual tenants. Extreme care must be taken to prevent personal property if families are not to be moved completely from their permanently assigned unit.

4.0 Planning Relocation and Momentary Vacancies

The PHA shall consider hiring a Relocation Coordination (RC) to plan, coordinate and execute all tasks associated with resident moves. The RC is the most important person in the whole relocation concept. This individual must be able to communicate on a continuing basis with the residents of the project which is being ebated. The RC must develop the confidence of the residents and work closely with them as they prepare to move. The RC would be responsible for:

(a) Notifying the residents of the planned abatement;
(b) Identifying the relocation units;
(c) Discussing with the contractor or modernization coordinator the units to be abated, and the method of abatement to determine when relocation is necessary;
(d) Scheduling resident moves to coincide with the start of abatement to minimize the time of displacement;
(e) Assisting residents and individuals and families in preparing;
(f) Assuring that all tenant purchased services, i.e., utilities, telephone, cable service, mail delivery, etc., are addressed;
(g) Obtaining the services of a moving company or working closely with the PHA assigned movers;
(h) Preparing necessary forms for direct payments or reimbursements;
(i) Establishing a claims policy regarding damaged goods;
(j) Arranging for tenants to return to their original units.

5.0 Eligible Costs

All costs associated with paragraphs 2, 3, and 4 are eligible CIAP costs.

6.0 Technical Assistance

The PHA may direct questions on temporary moves to the Housing Management Specialist in the Field Office and on involuntary permanent moves under the URA to the Community Planning and Development (CPD) Relocation Specialist in the Field or Regional Office.

Appendix 14.2—Sample Request for Proposal for the Design and Abatement of Lead Based Paint at

The Housing Authority is requesting proposals from qualified firms to provide the total combined services of surveying, assessing, designing, project planning/scheduling/management, and the post abatement testing of existing lead based paint coated walls, doors, frames, structures, etc. located at

General Requirements

All firms interested in providing a proposal submission shall prepare and present their proposal on or before

All firms shall submit their proposals in strict accordance with the requirements of this Request for Proposal to be considered responsive. Those firms making submittal not in accordance with the requirements and format of this proposal shall be deemed non-responsive. Attendance at a Site Pre-Proposal Conference and walk-through on is mandatory. Those firms not in attendance will not be permitted to submit a proposal. Other site visits may be scheduled from to on through by contacting at

All firms are responsible for the verification of all site conditions. Discrepancies to this R.F.P. and related documents shall be brought to the attention of at least 3 days prior to the submittal of their proposal.

All submitted proposals shall be evaluated for responsiveness to the requirements of the R.F.P. Again, those proposals not in accordance with the R.F.P. shall be deemed non-responsive and eliminated from further evaluation. After preliminary review of the submitted proposal for responsiveness to the R.F.P., each proposal shall be objectively evaluated and assigned points as per the criteria established in Attachment A. Responsiveness to the R.F.P. shall be assigned a minimum value with each proposal evaluated on how the proposal exceeds the minimum criteria established.

Note.—This section shall also include the Department of Housing and Urban Development’s General Conditions along with the PHA’s standard Supplementary Conditions, Non-Segregated Facilities Affidavit, Non-Collusive Affidavits, Bonding Requirements, Corporate Financial Data, etc.

Project Description

PHA to include applicable information as to the general configuration of the Project, phasing, special requirements, number of units affected including common areas, maintenance/management areas, project work scope as preliminary defined, preliminary report/survey data, work limitations/precautions, etc.

Mandatory Proposal Content

The following are the suggested minimum Mandatory Proposal Requirements that shall be submitted by the proposing firm.

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Section I: Proposal Introduction

Firms statement of interest, acknowledgement of the request for proposal, site and regulatory requirements by the firm and its principles. Said statement shall be of an affidavit form duly notarized.

Section II: Specific Project Approach

Proposing firms shall detail its specific approach to the project initial survey and assessment, work scope, Housing Authority/worker/management/tenant interfacing, (including resident relocation, worker training, Worker/Community Right to Know) emergency procedures, proposed project office/contractor storage/department areas, proposed subcontractors including independent sampling/testing/analytical firm, project sequence and phasing, specific drawings/input detailing the design of containment structures, personnel decontamination enclosures, pre-cleaning procedures, post-abatement cleaning/ housekeeping practices in process/final inspection/testing, sampling, records/documentation procedures, lead-based paint packaging/storage/transportation and disposal criteria, the name of the hazardous waste transporter and the proposed hazardous waste remittal facility, inspection, quality assurance procedures, permits/notification, etc.

Note.—A commitment letter from the hazardous waste remittal facility should be requested.

Section III: Schedule

The proposing firm shall submit a schedule complete with specific project mobilization/phasing/sequencing/tour-over milestones, as correlated to the calendar.

Section IV: Profile of the Firm/Previous Experience

Proposing firm shall provide information detailing its proposed specific project staffing/subcontractors, with interfacing responsibilities and reporting/lines of function. Resumes/certifications of all key personnel shall be included.

The proposing firm shall provide and demonstrate their qualifications/capabilities as delineated:
(a) Reliability in performance of general contracting activity through the submission of a list of references.
(b) Ability to perform lead-based paint abatement activities by submitting evidence of the successful completion of training courses covering lead-based paint identification and assessment, engineering, planning, testing and abatement as required by OSHA and other federal, state, county and local regulations.
(c) Prior experience in performing previous abatement projects through the submission of a list of prior contracts, including: the names, addresses, and telephone numbers of owners for whom the projects were performed.

Additional evidence of successful completion of prior abatement projects, shall be demonstrated by contractors through the submission of standard testing data or other independent reports/documentation of post-abatement testing or inspection taken during and after completion of previous projects.

Note.—Specific projects associated with lead-based paint abatement in public housing shall be given priority over all other projects.
(1) Current insurance certificates delineating coverage amount for Workman’s compensation, Comprehensive General Liability, Lead-based paint abatement, Professional Liability/Errors and Omissions. Said certificates shall hold no exclusions for lead-based paint related work and shall state that the coverage delineates for said lead-based paint project and what type and amount of coverage is provided.
(2) A copy of the Insurance policies as referenced on the Certificate of Insurance.

Section V: Proposed Fee Structure

(1) Lump sum base bid.
(2) Units costs as applicable for patchwork, wall covering removal, extra abatement, etc.

Section VI: Minority Business Enterprise (MBE)
Participation/Affirmative Action Programs

Firm to submit plans for the utilization of MBE’s with commitments of percentage of contract amount to be allocated for MBE participation.

The proposing firm shall establish goals for the utilization of minorities during the project various work activities.

EXAMPLE

Appendix 14.3—Housing Authority of Baltimore City; Specifics, Proposal, Contract and Bond: Comprehensive Modernization of Douglass Homes, Md002005

ME-002

Addendum No. 3. October 6, 1989

The attention of prospective bidders is directed to the following announcement regarding the comprehensive modernization of Douglass Homes:

1. The demolition work under this contract is still DEFERRED. However, recent changes in State of Maryland requirements have been reviewed and proposed changes and modifications to the specifications are enclosed herewith.

2. All prospective bidders interested regarding this matter should attend a meeting for lead paint abatement requirements on Wednesday, October 25th at 10:00 A.M. in Room 303, 417 E. Fayette Street, Baltimore, Maryland 21202.

3. Any questions regarding the addendum requirements will be discussed at this meeting.

In all other respects, the Contract Documents shall apply as originally issued or amended.

Director,

Maintenance and Engineering.

10.1.1. Lead Paint Abatement Guidelines

A. Scope

1. The demolition work under this contract covers materials which contain lead paint, such as: plaster walls, baseboards, doors, frames, shelving, rods, and trim etc. These items are to be secured to walls and or ceilings that also contain lead paint.

2. The proposed subcontractor will provide all labor, materials, tools, equipment, services, testing supervision and incidents necessary to perform work of lead paint abatement under this contract in accordance with the following specifications. After removal, the areas disturbed shall be abated, cleaned and tested in accordance with the procedures outlined below. These specifications have been reviewed and approved by The City of Baltimore and The Department of the Environment for use in HABC specifications.

B. General Requirements:

All workers who perform the renovation work for lead paint abatement (demolition, encapsulation and clean up) described herein shall have successfully completed a training course in lead abatement within the previous five (5) years approved by The Maryland Department of the Environment.

C. Insurance:

In addition to insurance requirements stated elsewhere in the specifications, the Contractor shall provide the HABC with certificates as evidence that he possesses insurance to cover lead paint abatement work for a minimum amount of $500,000.00 single limit for bodily injury and property damage limits of $1,000,000.00 per occurrence.

D. Records:

1. The Contractor shall provide the name and address of the Sub-Contractor responsible for the demolition, encapsulation and clean up work.

2. The location and description of the development and locations where the lead based substances were abated through removal or encapsulation.

3. The starting and completion dates of the abatement work.

4. A summary of the techniques used to comply with these regulations.

5. The Contractor shall mark on as-built drawings a note in bold letters that all surfaces with lead paint have been encapsulated under this contract, describing such locations.

6. The Contractor shall submit for HABC information and records, copies of all records indicating that the reported work has been performed in compliance with the lead paint abatement.

E. Methods of Abatement:

1. Replacement: Any component part of a building may be abated by replacement with a part free of lead containing substances as detailed in the technical specifications.

2. Encapsulation: The following encapsulation methods will be performed in accordance with the contract specification section applicable to the type of work.

a. A wall or ceiling surface will be abated by installing drywall. (See section of HABC specification dealing with drywall).

b. The proposed subcontractor will provide all labor, materials, tools, equipment, services, testing supervision and incidents necessary to perform work of lead paint abatement under this contract in accordance with the following specifications. After removal, the areas disturbed shall be abated, cleaned and tested in accordance with the procedures outlined below. These specifications have been reviewed and approved by The City of Baltimore and The Department of the Environment for use in HABC specifications.

b. All surfaces with lead paint have been encapsulated under this contract, describing such locations.

7. The Contractor shall submit for HABC information and records, copies of all records indicating that the reported work has been performed in compliance with the lead paint abatement.

E. Methods of Abatement:

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8. The Contractor shall submit for HABC information and records, copies of all records indicating that the reported work has been performed in compliance with the lead paint abatement.

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b. All surfaces with lead paint have been encapsulated under this contract, describing such locations.

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b. All surfaces with lead paint have been encapsulated under this contract, describing such locations.

7. The Contractor shall submit for HABC information and records, copies of all records indicating that the reported work has been performed in compliance with the lead paint abatement.
F. Personal Protection:
1. The Contractor shall ensure that its employees are protected in accordance with all applicable Federal, State and local standards.
2. All persons not covered by COMAR 09.12.32 and working on a lead abatement project shall, when present at the work site, wear disposable clothing and shoe covers.
3. Lead paint abatement personnel shall have received lead paint medical screening and will have been physician certified to work while wearing a respirator in accordance with COMAR regulations.
4. Use of heat guns or Sanders for lead paint removal is prohibited.

G. Control of Access:
A person or pet may not enter or remain in a group day care center, residential property, or an apartment building at any time during a lead abatement project which involves the on-site removal of lead paint, unless that person is:
1. The owner of the building or the owner’s designee.
2. The Contractor engaged for the lead abatement project and his employee.
3. A State, County or local enforcement official or his designee.
4. An inspector representing a lender with a security interest in the building which is being abated; or
5. A Federal, State or local official, or his designee, engaged in research on buildings in which lead paint is present.

H. Control of Emissions and Dust:
1. Caution Signs:
   a. At each separate work area, the Contractor performing an abatement shall display a caution sign in the following manner wherever the treatment process is reasonably expected to produce or disturb any lead containing substances.
   (1) Except in emergency situations, at least 3 days before removing or encapsulating lead paint, the Contractor shall post signs immediately outside all entrances and exits to the work area;
   (2) The Contractor shall keep the signs posted until the Department of Environment or Inspector issues the written notice of completion and lead paint dust tests have been performed, and approved.
   (3) The Contractor shall assure that the sign required by 1(a) meets the following description:
      (a) The sign is at least 20” by 14” and states the date and place of the lead abatement project;
      (b) The sign includes the phrase, “Caution Lead Hazard, Keep Out” in bold lettering at least 2 inches high.
2. Interior Containment:
   a. The Demolition Contractor shall seal the abatement area prior to any work of lead paint removal or disturbance by covering all floors, vents, windows and doors opening into the abatement area by a layer of 6 mil thick polyethylene [plastic] sheeting, secured by waterproof tape and industrial staples where applicable. The covering on windows, exterior doors and transoms shall be installed from the outside, to facilitate work of them from inside.
   b. All the plastic sheeting of floors shall be removed along with the debris and lead waste prior to the clean up procedures described below. The sheeting on any critical area or on windows, vents and exterior doors may be removed at the clean up after the lead paint encapsulation.
3. Lead Paint Abatement Area Prior to any work of lead abatement project:
   a. After the Demolition work is done, remove all debris and provide the interim 1st interior clean-up as below:
      b. Deposit all lead waste, including sealing tape, plastic sheeting, mop heads, sponges, filters, and disposable clothing in double plastic bags of at least 4 mils thick, or single bags 6 mils thick and seal the bags;
      c. Vacuum all surfaces in the work area including woodwork, walls, windows, window wells, and floors with a HEPA vacuum;
      d. After vacuum cleaning, wet wash all floors in the work area with a solution containing at least 1 ounce of 5 percent trisodium phosphate to each gallon of water;
      e. After washing, vacuum clean surface after it has dried with a HEPA vacuum until no visible residue remains;
      f. After the first interim clean up as described above, the roughing in and lead paint encapsulation work may begin. After the encapsulation work, but before the painting and floor tiling, a second interim clean up shall be accomplished as below:
      g. Remove all debris from the contained area along with any of the plastic sheeting left on the windows, vents and doors, etc. in the manner described for the first clean up;
      h. Vacuum clean all surfaces with a HEPA vacuum as described above. The painting and floor covering may begin after this clean up;
   h. After all the work is completed but before the unit turnover, perform the final clean up with HEPA vacuum, phosphate wash and HEPA vacuum procedure described above and conduct the wipe tests.
4. Waste Disposal:
   a. The Contractor shall remove within forty-eight (48) hours all lead waste from the site after completing the clean up.
   b. The Contractor involved in the lead abatement work shall transport and dispose of lead waste in a legal manner to prevent lead from becoming airborne, at all times.
5. Testing:
   a. After the final clean up and waste removal, the Contractor shall conduct wipe tests for the completed units, in accordance with the requirements of the Health Department, from an approved testing laboratory following the Health & Mental Hygiene Protocol for dust testing. The Contractor shall submit the test results indicating that the lead dust level in the tested unit is below the allowable by the regulatory agencies (Not to exceed: 200 micrograms per sq. ft. at the floors, 500 micrograms per sq. ft. at window sills and 800 micrograms per sq. ft. at the window wells). If the test results indicate higher levels, the Contractor shall conduct additional clean up as specified and retest the unit. The Contractor shall repeat this procedure until the unit is tested with an acceptable level of lead dust.
6. Unit Price:
   a. Quote a unit price per dwelling unit for the lead waste removal, interim and final clean ups, testing and certifications work described above in the bid sheet, as unit price no. 3.
7. Submittals:
   a. A copy of the lead paint certifications for the Contractor or Sub-Contractor work force must be submitted to HABC.
   b. The Contractor shall inform HABC of the location of the approved waste disposal site and provide a certification after disposal.
   c. Certificates of training for all personnel who will be performing the work under this contract must be submitted to the HABC.

EXAMPLE
Housing Authority of Baltimore City: Specifications, Proposal, Contract and Bond; Comprehensive Modernization of Douglass Homes, M0922085

Addendum No. 4. November 1, 1989
The attention of prospective bidders is directed to the following announcement regarding the comprehensive modernization of Douglass Homes:

DIVISION 1, GENERAL REQUIREMENTS, SECTION 01720

1.0.1. LEAD PAINT ABATEMENT PROCEDURES

A. SCOPE:
1. The demolition work under this contract covers the removal and disposal of lead paint, such as: walls, baseboards, doors, frames, shelving, rods, trim, handrails, steps, etc. These items are secured to walls, floors and ceilings.
2. The Contractor or Subcontractor shall provide all labor, materials, equipment, services, testing, supervision and incidentals necessary to perform work of lead paint abatement under this contract and in accordance with the following specifications.

B. GENERAL REQUIREMENTS:
All workers who perform the renovation work for lead paint abatement (demolition and clean up) described herein shall have successfully completed within the previous five (5) years a training course in lead abatement, approved by the Maryland Department of the Environment (Lead Poisoning Prevention Program).
C. INSURANCE:

In addition to insurance requirements stated elsewhere in the specifications, the Contractor or Subcontractor shall provide the HABC with certificates as evidence that he/she possesses insurance to cover lead paint abatement work with a minimum of $500,000 single limit for bodily injury and property damage limits of $1,000,000 per occurrence.

D. RECORDS:

1. The Contractor or Subcontractor shall provide the addresses of certified subcontractors responsible for performing the lead paint abatement procedures.
2. The Contractor or Subcontractor shall submit a detailed summary of the techniques used to comply with these regulations.
3. The Contractor or Subcontractor engaged in research on lead abatement shall share the HABC copies of all records indicating that the renovation work has been performed in compliance with the lead paint abatement procedures.

E. METHODS OF ABATEMENT:

1. Replacement: Any part of a building component may be abated by replacement with a part free of lead containing substances, as detailed in the technical specifications.
2. Encapsulation: The following encapsulation methods shall be performed in accordance with the contract specific section applicable to the type of work:
   a. A wall or ceiling surface shall be abated by installing drywall. (See related sections of the HABC specification and drawings).
   b. The door frames, that are not removed, shall be covered with a layer of 6 mil thick polyethylene (plastic) sheeting, waterproof tape and industrial staples where needed.
   c. Removal of loose and peeling paint, where needed, shall be accomplished prior to the encapsulation by wet scraping by trained and certified workers.

F. PERSONAL PROTECTION:

1. The Contractor or Subcontractor shall provide the necessary personal protective equipment (PPE) to his/her employees, as specified in the HABC specification and drawings.
2. All persons, when present at the work site, shall wear disposable clothing and shoe covers.
3. Demolition and clean-up personnel shall have received lead paint medical screening and shall be physician certified to work in accordance with COMAR regulations.

G. CONTROL OF ACCESS:

3. The Contractor or Subcontractor shall provide the HABC with certificates as evidence that he/she possesses insurance to cover lead paint abatement work with a minimum of $500,000 single limit for bodily injury and property damage limits of $1,000,000 per occurrence.

D. RECORDS:

1. The Contractor or Subcontractor shall provide the addresses of certified subcontractors responsible for performing the lead paint abatement procedures.
2. The Contractor or Subcontractor shall submit a detailed summary of the techniques used to comply with these regulations.
3. The Contractor or Subcontractor engaged in research on lead abatement shall share the HABC copies of all records indicating that the renovation work has been performed in compliance with the lead paint abatement procedures.

E. METHODS OF ABATEMENT:

1. Replacement: Any part of a building component may be abated by replacement with a part free of lead containing substances, as detailed in the technical specifications.
2. Encapsulation: The following encapsulation methods shall be performed in accordance with the contract specific section applicable to the type of work:
   a. A wall or ceiling surface shall be abated by installing drywall. (See related sections of the HABC specification and drawings).
   b. The door frames, that are not removed, shall be covered with a layer of 6 mil thick polyethylene (plastic) sheeting, waterproof tape and industrial staples where needed.
   c. Removal of loose and peeling paint, where needed, shall be accomplished prior to the encapsulation by wet scraping by trained and certified workers.

F. PERSONAL PROTECTION:

1. The Contractor or Subcontractor shall provide the necessary personal protective equipment (PPE) to his/her employees, as specified in the HABC specification and drawings.
2. All persons, when present at the work site, shall wear disposable clothing and shoe covers.
3. Demolition and clean-up personnel shall have received lead paint medical screening and shall be physician certified to work in accordance with COMAR regulations.

G. CONTROL OF ACCESS:

1. The Contractor or Subcontractor shall provide the addresses of certified subcontractors responsible for performing the lead paint abatement procedures.
2. The Contractor or Subcontractor shall submit a detailed summary of the techniques used to comply with these regulations.
3. The Contractor or Subcontractor engaged in research on lead abatement shall share the HABC copies of all records indicating that the renovation work has been performed in compliance with the lead paint abatement procedures.

E. METHODS OF ABATEMENT:

1. Replacement: Any part of a building component may be abated by replacement with a part free of lead containing substances, as detailed in the technical specifications.
2. Encapsulation: The following encapsulation methods shall be performed in accordance with the contract specific section applicable to the type of work:
   a. A wall or ceiling surface shall be abated by installing drywall. (See related sections of the HABC specification and drawings).
   b. The door frames, that are not removed, shall be covered with a layer of 6 mil thick polyethylene (plastic) sheeting, waterproof tape and industrial staples where needed.
   c. Removal of loose and peeling paint, where needed, shall be accomplished prior to the encapsulation by wet scraping by trained and certified workers.

F. PERSONAL PROTECTION:

1. The Contractor or Subcontractor shall provide the necessary personal protective equipment (PPE) to his/her employees, as specified in the HABC specification and drawings.
2. All persons, when present at the work site, shall wear disposable clothing and shoe covers.
3. Demolition and clean-up personnel shall have received lead paint medical screening and shall be physician certified to work in accordance with COMAR regulations.

G. CONTROL OF ACCESS:

1. The Contractor or Subcontractor shall provide the addresses of certified subcontractors responsible for performing the lead paint abatement procedures.
2. The Contractor or Subcontractor shall submit a detailed summary of the techniques used to comply with these regulations.
3. The Contractor or Subcontractor engaged in research on lead abatement shall share the HABC copies of all records indicating that the renovation work has been performed in compliance with the lead paint abatement procedures.

E. METHODS OF ABATEMENT:

1. Replacement: Any part of a building component may be abated by replacement with a part free of lead containing substances, as detailed in the technical specifications.
2. Encapsulation: The following encapsulation methods shall be performed in accordance with the contract specific section applicable to the type of work:
   a. A wall or ceiling surface shall be abated by installing drywall. (See related sections of the HABC specification and drawings).
   b. The door frames, that are not removed, shall be covered with a layer of 6 mil thick polyethylene (plastic) sheeting, waterproof tape and industrial staples where needed.
   c. Removal of loose and peeling paint, where needed, shall be accomplished prior to the encapsulation by wet scraping by trained and certified workers.
**N. COMPLETION DATE:**

The work in Stage 1 (Sector I) shall be commenced on the date stipulated in the Notice to Proceed, and shall be fully completed within 240 plus 30 days (per Addendum No. 4, Lead Paint Abatement) consecutive calendar days thereafter. Following this date, a 20 calendar day period of no construction will be allowed for tenant relocation. The work on Stage 2 (Sector II) shall be commenced 280 days after the date stipulated in the Notice to Proceed and shall be completed within 270 plus 30 days (per Addendum No. 4, Lead Paint Abatement) consecutive calendar days thereafter. Following this date, a 20 calendar day period of no construction will be allowed for tenant relocation. The work on Stage 3 (Sector III) shall be commenced 560 days after the date stipulated in the Notice to Proceed and shall be completed within 210 plus 30 days (per Addendum No. 4, Lead Paint Abatement) consecutive calendar days thereafter. The total period for project completion shall therefore be 780 consecutive calendar days including 40 days of no construction. Any time extensions approved and granted will apply to the total completion time of the project.

In all other respects, the Contract Documents shall apply as originally issued or amended.

Director, Maintenance and Engineering.

**EXAMPLE**

Housing Authority of Baltimore City: Specifications, Proposal, Contract and Bond; Comprehensive Modernization of Douglass Homes, MD 003805

ME-902

Addendum No. 5, November 2, 1989

The attention of prospective bidders is directed to the following announcement regarding the comprehensive modernization of Douglass Homes:

**Service Commission for their approval, the contractor shall have the meters tested at his cost.** The contractor shall also test certify the meters for accuracy as required by COMAR 20.25.01.

In all other respects, the Contract Documents shall apply as originally issued or amended.

Director, Maintenance and Engineering.

**EXAMPLE**

Housing Authority of Baltimore City: Specifications, Proposal, Contract and Bond; Comprehensive Modernization of Douglass Homes, MD 003805

ME-902

Addendum No. 6—November 19, 1989

The attention of prospective bidders is directed to the following announcement regarding the comprehensive modernization of Douglass Homes:

1. “Invitation for Bids”.

Change the cost classification range of this work from $5,000,000 to $10,000,000 to read:

$10,000,000 to $15,000,000

2. Refer to attached sheet “Amended copy of the “Unit Prices”. Add Unit Price No. 12.

3. Refer to Addendum No. 4. Add to the list of “contractors employing workers who have successfully completed the Lead Paint Abatement Training Course” the following contractor:

WACO, Inc., P.O. Box 446, 7520, Suite D, Connellsville, Hanover, Maryland 21076, 301-766-4558

In all other respects, the Contract Documents shall apply as originally issued or amended.

Director, Maintenance and Engineering.

**EXAMPLE**

**AMENDED COPY OF THE “UNIT PRICES” PER ADDENDUM NO. 6**

<table>
<thead>
<tr>
<th>Unit price number and description</th>
<th>Price per unit measure</th>
<th>Quantity</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Ringing: As described in Section 06500, Subpara. 1.04A</td>
<td>$— per sash component</td>
<td>2,000</td>
<td>$—</td>
</tr>
<tr>
<td>2. Rescreening: As described in Section 06500, Subpara. 1.04B</td>
<td>$— per screen component</td>
<td>2,000</td>
<td>$—</td>
</tr>
<tr>
<td>3. Fencing: As described in Section 02850, Subpara. 1.04A</td>
<td>$— per sq. ft.</td>
<td>8,000</td>
<td>$—</td>
</tr>
<tr>
<td>4. Concrete (Porch Steps): As described in Section 03300, 1.05</td>
<td>$— per sq. ft.</td>
<td>500</td>
<td>$—</td>
</tr>
<tr>
<td>5. Railings: As described in Section 05500, Subpara. 1.1A</td>
<td>$— per ft.</td>
<td>600</td>
<td>$—</td>
</tr>
<tr>
<td>6. Door(s)</td>
<td>$— per sq. ft.</td>
<td>12,000</td>
<td>$—</td>
</tr>
<tr>
<td>7. Interior Stair Handrails: As described in Section 06200, Subpara. 1.6A</td>
<td>$— per ft.</td>
<td>100</td>
<td>$—</td>
</tr>
<tr>
<td>8. Repair (Brick or Stone) As described in Section 04500, Subpara. 1.0A</td>
<td>$— per sq. ft.</td>
<td>200</td>
<td>$—</td>
</tr>
<tr>
<td>9. Deleted</td>
<td>$—</td>
<td>$—</td>
<td>$—</td>
</tr>
<tr>
<td>10. Sash Replacement: As described in Section 06500 Subpara. 1.04A</td>
<td>$— per sash component</td>
<td>400</td>
<td>$—</td>
</tr>
<tr>
<td>11. Storm Sash Replacement: As described in Section 06500 Subpara. 1.04A</td>
<td>$— per sash component</td>
<td>1,000</td>
<td>$—</td>
</tr>
<tr>
<td>12. Lead Paint Abatement—Quote a unit price per dwelling unit for the lead waste removal, interim and final clean up, testing and certification work described in Addendum #4 (Nov. 1, 1989), as unit price</td>
<td>$— per dwelling unit</td>
<td>393</td>
<td>$—</td>
</tr>
</tbody>
</table>

Total Amount—which shall be included in Base Bid Price
Housing Authority of Baltimore City
Specifications, Proposal, Contract and Bond;
Comprehensive Modernization of Douglass Homes, MD0020095

DECEMBER
Addendum No. 7—November 20, 1989
The attention of prospective bidders is directed to the following announcement regarding the comprehensive modernization of Douglass Homes:
1. Change bid date from NOVEMBER 29, 1989 at 2:00 p.m. EASTERN STANDARD TIME to read:
DECEMBER 6, 1989 at 2:00 p.m. EASTERN STANDARD TIME
2. Loadcenters: Refer to Specification Section 1600-4 (2.02).
a. All recessed loadcenters (cover plate and access door, exterior only) shall be painted (one [1] color to be selected by HABC) according to Specification Section 09900-6 (2.02-K).

In all other respects, the Contract Documents shall apply as originally issued or amended.

Part 2. Encapsulation Coating Systems
2.1 Elastics. Encapsulants shall be warranted by the manufacturer to be heavy-bodied and compatible with the substrate they are applied to. Elastic acrylic coatings shall be long-lasting and resist cracking, peeling, and shrinkage and fungus. Elastic formula should allow for some movement in walls without cracking. Coatings shall contain no hazardous ingredients by OSHA definition and be non-flammable.

Part 3. Execution
3.1 Encapsulation coatings shall be applied in accordance with the manufacturer’s recommendations.
3.2 Remove surface dust and debris by scrubbing with detergent (trisodium phosphate 5%-10% solution and rinsing). Remove loose paint until a sound, intact edge in adjacent plaster shall be removed and replaced prior to the coating application.
3.3 Encapsulation coatings shall be applied to the substrate in a continuous system as to seal the surface being coated. The number of coats required and coverage rates shall be in accordance with the manufacturers’ recommendations.
3.4 Areas that are lifting and peeling after the application of the coating shall be repaired by scraping until sound adhesive is obtained. Feathering the edges and repainting.
3.5 Obstacles in the surface to be coated such as electric receptacles, switches, exhaust fans, hardware etc. are to be removed or covered so to prevent them from being coated.

Part 4. Damages Care shall be taken to protect adjacent surfaces and surface obstacles from damage from coating systems. Damages to non-protected adjacent surfaces and surface obstacles shall be repaired at the Contractor’s expense.

Specification B
Abrasive Removers—Machine Sander

Part 1. General
1.1 Work Covered Under Other Sections The scope of work for providing temporary utilities, security, safety, worker protection, cleanup and disposal of waste materials are covered under Sections 1 through 4 of these contract specifications.
1.2 Work Included Under This Section Work included under this section includes the furnishing of all labor, materials, and equipment required to encapsulate lead-based paint by application of a coating sealer system.
2.2 Air compressors utilized to operate this equipment shall be designed to continuously provide 90 to 110 p.s.i. or as recommended by the manufacturer.

Part 4. Damages Care shall be taken to protect adjacent surfaces such as drywall, paneling, plaster, glass, etc. from damage from machine sanding. Damages to non-protected adjacent surfaces shall be repaired at the Contractor’s expense.

Specification C
Heat Blower Gun Removers

Part 1. General
1.1 Work Covered Under Other Sections The scope of work for providing temporary utilities, security, safety, worker protection, cleanup and disposal of waste materials are covered under Sections 1 through 4 of these contract specifications.
1.2 Work Included Under This Section Work included under this section includes the furnishing of all labor, materials, and equipment required to remove lead-based paint by heat, using a heat blower gun followed by scraping (as called out in these specifications).

Part 2. Heat Blower Gun Equipment Electrically operated, heatblower gun shall be a flameless electrical paint softener type. Heat blower shall have electronically controlled temperature settings to allow usage below a temperature of 700 degrees Fahrenheit. Heat-blower shall be DI type (non-grounded) 120V, AC application. Heat-blower shall be equipped with various nozzles to cover all common applications (cone, fan, glass protector, spoon reflector, etc.).

Part 3. Execution
3.1 The hot air stream from the heat-blower gun shall be directed at the painted surface and the paint allowed to blister and soften. Considerable lead is volatilized from lead-based paint and lead fumes are released at approximately 700 degrees Fahrenheit. Heat-blower shall not be operated above 700 degrees Fahrenheit and respirator protection is required for all persons in the work area.
3.2 Softened paint shall be removed down to the substrate surface as completely as possible by scraping and/or brushing. In cases that some pigment may remain
embedded in wood grain and similar porous substrate, care shall be taken to avoid damage to the substrate with the scraping or brushing. If the pigment cannot be removed without damaging the substrate, Contractor shall notify the Engineer for further instructions.

Part 4. Damages Care shall be taken to protect glass in windows and doors, and adjacent areas from damage from thermal stresses produced by the concentrated heat of the heatblower gun. Damages to non-protected glass and adjacent areas from thermal stresses shall be repaired at the Contractor's expense.

Specification D

On-Site Chemical Removers

Part 1. General

1.1 Work covered Under Other Sections

The scope of work for providing temporary utilities, security, safety, worker protection, cleanup and disposal of waste materials are covered under Sections 1 through 4 of these contract specifications.

1.2 Work Included Under This Section

Work included under this section includes the furnishing of all labor, materials, and equipment required to remove lead-based paint by machine blasting using a vacuum blaster with full containment capability, as called out in these specifications. Blasting shall not be considered for use on wood surface.

Part 2. Vacuum Blasting Equipment and Abrasive Media

2.1 Blaster shall be of full containment vacuum type, designed in full compliance with ASME, OSHA and all codes that govern the removal and handling of hazardous materials. The machine shall automatically clean dust and contaminants from the used abrasive by a dust separator before reuse of blasting media shall be non-toxic and compatible with all masonry surfaces. No blasting media shall come into contact with the surfaces utilized.

2.2 Blasting media shall be toxic and conform to the recommendations and specifications of the vacuum blasting machine manufacturer.

Part 3. Execution

3.1 Blasting shall be done on flat and shaped surfaces that are compatible with the available blast heads as provided by the equipment manufacturer. Blast heads shall come in contact with the surfaces being blasted as to provide maximum containment of dust and debris created by the blasting operation.

3.2 All lead-based paint shall be removed down to the bare substrate. In some cases that pigment may remain embedded in porous materials, care shall be taken not to damage the substrate with the blasting operation. If pigments cannot be removed without damaging the substrates, the Contractor shall notify the Engineer for further instructions.

3.3 Blasting operations shall be performed by workers who are properly trained in the use of the blasting equipment being utilized.

3.4 All work shall be in compliance with this Section, and all other applicable specification sections and all health and safety codes.

Part 4. Damages

4.1 The Contractor shall protect adjacent surfaces such as drywall, paneling, plaster, glass, etc. from damage from blasting work. Damages to protected adjacent surfaces shall be repaired at the Contractor's expense.

Specification E

Vacuum Blasting Removers—(Full Containment)

Part 1. General

1.1 Work Covered Under Other Sections

The scope of work for providing temporary utilities, security, safety, worker protection, cleanup and disposal of waste materials are covered under Sections 1 through 4 of these contract specifications.

1.2 Work Included Under This Section

Work included under this section includes the furnishing of all labor, materials, and equipment required to remove lead-based paint by machine blasting using a vacuum blaster with full containment capability, as called out in these specifications. Blasting shall not be considered for use on wood surface.

Part 2. Vacuum Blasting Equipment and Abrasive Media

2.1 Blaster shall be of full containment vacuum type, designed in full compliance with ASME, OSHA and all codes that govern the removal and handling of hazardous materials. The machine shall automatically clean dust and contaminants from the used abrasive by a dust separator before reuse of abrasive. All machine air filters shall be automatically cleaned during operations. The machine shall automatically load the dust and contaminants to approved disposable bags during operations. The machine shall be equipped with brush type blast heads for a wide range of flat, curved and other shaped surfaces.

2.2 Blasting media shall be toxic and conform to the recommendations and specifications of the vacuum blasting machine manufacturer.

Part 3. Execution

3.1 Blasting shall be done on flat and shaped surfaces that are compatible with the available blast heads as provided by the equipment manufacturer. Blast heads shall come in contact with the surfaces being blasted as to provide maximum containment of dust and debris created by the blasting operation.

3.2 All lead-based paint shall be removed down to the bare substrate. In some cases that pigment may remain embedded in porous materials, care shall be taken not to damage the substrate with the blasting operation. If pigments cannot be removed without damaging the substrates, the Contractor shall notify the Engineer for further instructions.

3.3 Blasting operations shall be performed by workers who are properly trained in the use of the blasting equipment being utilized.

3.4 All work shall be in compliance with this Section, and all other applicable specification sections and all health and safety codes.

Part 4. Damages

4.1 The Contractor shall protect adjacent surfaces such as drywall, paneling, plaster, glass, etc. from damage from blasting work. Damages to protected adjacent surfaces shall be repaired at the Contractor's expense.

Specification F

Enclosure—Paneling

Part 1. General

1.1 Work Covered Under Other Sections

The scope of work for providing temporary utilities, security, safety, worker protection, cleanup and disposal of waste materials are covered under Sections 1 through 4 of these contract specifications.

1.2 Work Included Under This Section

Work included under this section includes the furnishing of all labor, materials, and equipment required to enclose lead-, putty stained surfaces with prefinished plywood paneling complete as called out in these specifications.

1.2.1 Prior to the start of work, the Contractor shall submit to the Engineer for approval, manufacturer's descriptive literature, two (2) 12" x 1" samples of paneling and two (2) 6" long samples of molding of each color chosen for submission. Submittals of samples shall be in compliance with Specification K.

Part 2. Prefinished Plywood Panel

2.1 Prefinished plywood panels shall be 4’x 8’ inch thick, good (1) grade, glue backing grade veneer with type II bonding glue. Surface sand spread shall not exceed a 200 rating in accordance with ASTM E64 or in accordance with building code whichever is most restrictive.

2.2 Panel Finish-Nails, Putty Stick, Molding. The panel finish shall be as selected by the Engineer from samples submitted. Nails shall be finish type. Color of nails, putty stick and molding shall be matched to the paneling. Molding shall be as recommended by the manufacturer.

2.3 Adhesive. Adhesive for bonding paneling to framing or existing surfaces shall be as recommended by the paneling manufacturer.

2.4 Furring Strips. If furring strips are used, a system that is enclosed at the top, bottom and sides of the walls in addition to the placement of the strips for enclosure installation shall be used. Adhesive shall be applied to the top, side and bottom furring strips prior to attaching the paneling.

Part 3. Execution

3.1 Surface Preparation

3.1.0 Remove foreign material by washing with a 5% to 10% trisodium phosphate solution. Remove loose plaster, loose paint and loose wallpaper. If furring strips are used, a system that is enclosed at the top, bottom and sides of the walls in addition to the placement of the strips for enclosure installation shall be used. Adhesive shall be applied to the top, side and bottom furring strips prior to attaching the paneling.

3.1.2 Warning labels stating surface preparation shall be affixed to the surface prior to being enclosed. Labels shall be 3" x 5" and placed every 4’ across the wall being enclosed.

3.2 Test for Soundness

3.2.1 Test for soundness of paint bond where the condition is questionable by application of 3/16” x 3” long bond of adhesive to the face of an 8” square of gypsum wallboard and press wallboard
Part 2.

2.5 Screws. Screws shall be self-tapping, bugle-head for use with power driven screwdrivers. Type S, 1/4" long, shall be used to fasten wallboard to sheet metal. Type W, 1/4" long shall be used to fasten wallboard to wallboard. Type G, 1/4" long shall be used to fasten wallboard to wallboard. Adhesive shall be applied in a %" diameter bead, continuous %" in from edges. One bead shall be installed at each slitting edge. Screws shall not be used.

3.2.2 Repeat test procedure wherever wall surface is questionable. If test fails, Contractor will notify the Engineer for further instructions.

3.3 Paneling Installation

3.3.0 Panel shall fit as tight as possible to adjacent surfaces (zero clearance). Each panel shall be fitted before applying adhesive.

3.3.1 The adhesive shall be applied in a %" inch diameter bead at 16 inch o.c or on all framing and continuous %" inch from edges. One bead shall be installed at each slitting edge. Screws shall not be used.

3.3.2 Press panel firmly into contact with adhesive. Nail top, bottom and side edges at 6 inch o.c or on all framing and continuous %" inch from edges. One bead shall be installed at each slitting edge. Screws shall not be used.

3.3.3 Molding shall be installed with adhesive. Nail top, bottom and side edges with an approved caulk or sealer. Molding shall be installed with adhesive.

3.3.4 Molding shall be installed with mitered, tight, smooth corners.

3.3.5 Penetrations made in paneling to accommodate electrical receptacles, switches, light fixtures, etc. shall be sealed continuous with a non-hardening caulk or sealer. Penetrations shall be slightly larger than the existing opening to allow for a tight seal to the existing wall surfacing.

Specification G

Enclosure—Gypsum Wallboard

Part 1. General

1.1 Work covered Under Other Sections

The scope of work for providing temporary utilities, security, safety, worker protection, cleanup and disposal of waste materials are covered under Sections 1 through 4 of these contract specifications.

1.2 Work Included Under This Section

Work included under this Section includes the furnishing of all labor, materials and equipment required to enclose lead-based painted surfaces with gypsum wallboard complete, as called out in these specifications.

2.1 Gypsum Wallboard. Gypsum wallboard shall be in accordance with ASTM C350-70 or Federal Specification SS-J-30C, Type HI, Grade R, Class I and shall be %/inch thick.

2.2 Molding-Beading

2.2.0 Corner bead shall be U.S. Gypsum No. 101 durabead or equal.

2.2.1 Casing bead shall be U.S. Gypsum No. 300, or equal.

2.2.2 Molding shall be installed with formed, mitered, tight and smooth corners and splices.

2.3 Adhesive. Adhesive for bonding wallboards to framing or to existing surfaces shall be as recommended by the wallboard manufacturer.

2.4 Nails. Nails shall not be used.
to. Composite systems shall be fire resistant to produce a flame spread of no more than 10 and smoke development of no more than the 5 in accordance with the modified ASTM E-108 Fire Test or local code, whichever is most restrictive.

2.2. Fabricated Enclosure Systems shall be of aluminum, vinyl or wood enclosure systems. Fabricated systems shall be long lasting and demonstrate resistance to moisture, mildew, abrasion, chemicals, absorption-freeze and impact. Fabricated systems shall allow for thermal expansion and contraction without cracking, peeling or buckling. Fabricated systems shall be installed on a furring system that is enclosed at top, bottom and sides to form a tight enclosure to contain lead-based paint flakes and dust completely. Fabricated systems shall consist of furring with mechanically attached sheeting. Sheet joints are to be sealed by tapping. The sheeting system shall provide a vapor barrier to prevent a dewpoint condition behind the sheeting. Finally the system shall be sided with aluminum, vinyl or wood. Exterior applications, such as soffit, fascia windows and door trim shall be completely enclosed with mechanically fastened aluminum, vinyl or wood and sealed with an approved caulk or sealer to completely contain lead-based paint flakes or dust.

2.3. Enclosure systems shall be submitted to the Engineer for approval in accordance with Specification K.

2.4. Warning labels stating surface contains "LEAD-BASED PAINT" shall be affixed to the surface prior to being enclosed. Labels shall be 3" x 5" and placed every 4' across the wall and at the bottom and top of the wall being enclosed.

Part 3. Execution

3.1. Enclosure systems shall be installed in compliance with the manufacturer's recommendations.

3.2. Composite enclosure systems shall be installed only to flat substrate of good structural integrity such as masonry, concrete, stucco, etc.

3.3. Fabricated enclosure systems may be installed to irregular as well as flat substrate. Irregular substrates are shingle, lap joint, forstone, etc.

3.4. Care shall be taken to comply with the General Conditions, Part 8 20, 21 and Section I—Set Up Procedures, Section II—Worker Protection, Section III—Clean-up Procedures and Section IV—Disposal of Waste Materials. Part 4. Damages The Contractor shall exercise care as to protect adjacent areas or elements from damage caused by this work. Damages to non-protected areas or elements or from lack of care shall be repaired or replaced at the Contractor's expense.

Specification H

Chemical Removers—Off-Site Stripping

Part 1. General

1.1. Work Covered Under Other Sections

The scope of work for providing temporary utilities, security, safety, worker protection, cleanup and disposal of waste materials are covered under Sections 1 through 4 of these contract specifications.

1.2. Work Included Under This Section

Work included under this Section includes the furnishing of all labor, materials and equipment required to remove and transport lead-based painted elements to a site location, remove lead-based paint by chemical stripping, return elements to the job site and reinstall complete as called out in these specifications. All substrate shall be marked in order to insure proper reinstallation.

Part 2. Chemical Stripping Removers

Chemical removers shall contain no methylene chloride products. Chemical removers shall be compatible with and not harmful to the substrate that they are applied to. Chemical removers used on wood substrate shall be of a product that will not raise or discolor wood grain.

Part 3. Execution

3.1. Extreme care shall be taken to remove elements to be taken off-site as not to damage or cause harm to those elements. Elements must be marked and identified using an inconspicuous engraving. Hardware associated with an element shall be bagged and marked as to which element the hardware is associated with. If needed, hardware shall be chemically stripped, cleaned or reconditioned as required.

3.2. Chemical stripping agents shall be applied and the lead-based paint removed in accordance with the recommendations of the manufacturer. Stripping agents shall not be allowed to penetrate wood or other fibrous substrates.

3.3. Care must be taken to adhere to all health, safety code and other specification section requirement that apply to the job site area.

Part 4. Damages

The contractor shall protect the elements that are removed and installed, as well as the elements from removal and reinstallation of those elements. Damages due to non-protection or lack of care shall be repaired or replaced at the Contractor's expense.

Specification I

Removal and Replacement of Lead-Based Painted Substrates

Part 1. General

1.1. Work Covered Under Other Sections

The scope of work for providing temporary utilities, security, safety, worker protection, cleanup and disposal of waste materials are covered under Sections 1 through 4 of these contract specifications.

1.2. Work Included Under This Section

Work included under this Section includes the furnishing of all labor, materials and equipment required to remove and replace lead-based painted substrates complete, as called out in these specifications.
gypsum wallboard and press wallboard square on to wall surface to be tested. Allow setting time recommended by adhesive manufacturer. Pull square away from wall. Paint bond is acceptable if the paper surface is separated from the wallboard square.

3.2.2 Repeat the procedure wherever wall surface is questionable.

3.3 Wallcovering Installation. The wall covering shall be installed in accordance with the manufacturer's recommendations.

**Specification K**

**Submittal Approval by Engineer**

Part 1: General

1.1 Work Covered Under Other Sections

The scope of work for providing temporary utilities, security, safety, worker protection, cleanup and disposal of waste materials is covered under Sections 1 through 4 of these contract specifications.

1.2 Work Included Under This Section

Work included under this Section includes the submission of product data and samples that require the approval of the Engineer before being incorporated into the project.

Part 2: Description

2.1 Submit product data to the Engineer.

2.2 Product data shall be manufacturer's catalog sheets, brochures, diagrams, schedules, performance charts, illustrations, material safety data sheets (MSDS) and other standard descriptive data. Submittal data shall be clearly marked to identify pertinent materials, products or models and show performance characteristics and capacities.

2.3 Samples shall be of sufficient size and quantity to clearly illustrate the functional characteristics of the product or material with integrally related parts and attachment devices.

Part 3: Contractor's Responsibilities

3.1 Review product data and samples prior to submission to the Engineer. Submit the material with a statement of Contractor's review.

Example: This submission has been reviewed and submitted in accordance with the General Conditions and Section K of the contract Specifications.

Signed: ____________________

[Contractor's name, address, etc.]

Date: ____________________

3.2 Coordinate each submittal with requirements of work and of Contract Documents.

3.3 Contractor's responsibility for errors and omissions in submittals is not relieved by the Engineer's review of submittals.

3.4 Contractor's responsibility for deviations in submittals from requirements of contract documents is not relieved by the Engineer's review of submittals, unless the Engineer gives written acceptance of specific deviations.

3.5 Notify the Engineer in writing at the time of submission of deviations in submittals from requirements of the contract documents.

3.6 Begin no work which requires submittal for approval until the Engineer has "approved" or "approved as noted" the submittal.

Part 4: Submission Requirements

4.1 Schedule submissions at least 10 days before dates reviewed submittals will be needed by the Contractor.

4.2 Unless otherwise specified in product specification sections, submit four (4) copies of manufacturer's descriptive data for materials, equipment, etc., showing information as required until final approval is obtained from the Engineer.

4.3 Samples shall be marked, tagged or otherwise properly identified with the name of the Contractor, the name of the project, the purpose for which the samples are submitted, and the date.

4.4 Samples shall be accompanied by a letter of transmittal containing information similar to part 4.3 together with the specification paragraph number for identification of each item.

4.5 Submittals shall provide a blank space 4 inch by 4 inch for the Engineer's review comments.

Part 5: Resubmission Requirements

Resubmission of "rejected" or "revise and resubmit" submittals shall be accomplished within 10 days of such comment by the Engineer.

**Specification L**

**Operating Procedures for the Uses of Negative Pressure Systems for Lead-Based Paint Abatement**

L.1 Introduction

This specification provides guidelines for the use of negative pressure systems in removing lead containing materials from buildings. A negative pressure system is one in which static pressure in an enclosed work area is lower than that of the environment outside the containment barriers.

The pressure gradient is maintained by moving air from the work area to the environment outside the area via powered exhaust equipment at a rate that will support the desired air flow and pressure differential. Thus, the air moves into the work area through designated access spaces and any other barrier openings. Exhaust air is filtered by a high efficiency particulate air (HEPA) filter to remove lead particles.

The use of negative pressure systems removes large-scale release of particles to the surrounding area in case of a breach in the containment barrier. A negative pressure system also reduces the concentration of airborne lead in the work area by increasing the dilution ventilation rate (i.e., diluting contaminated air in the work area with uncontaminated air from outside) and exhausting contaminated air through HEPA filters. The circulation of fresh air through the work area reportedly also improves worker comfort, which may aid the removal process by increasing job productivity.

L.2 Materials and Equipment

L.2.1 The Portable, HEPA-Filtered, Powered Exhaust Unit

The exhaust unit establishes lower pressure inside than outside the enclosed work area during lead abatement. Basically, a unit (see Figure L-1) consists of a cabinet with an opening at each end, one for air intake and one for exhaust. A fan and a series of filters are arranged inside the cabinet between the openings. The fan draws contaminated air through the intake and filters and discharges clean air through the exhaust.

Portable exhaust units used for negative pressure systems in lead abatement projects should meet the following specifications.

L.2.1.1 Structural Specifications

The cabinet should be ruggedly constructed and made of durable materials to withstand damage from rough handling and
transportation. The width of the cabinet should be less than 30 inches to fit through standard-size doorways. The cabinet must be appropriately sealed to prevent lead containing dust from being emitted during use, transport, or maintenance. There should be easy access to all air filters from the intake end, and the filters must be easy to replace. The unit should be mounted on casters or wheels so it can be easily moved. It should be accessible for easy cleaning.

L.2.1.2 Mechanical Specifications

L.2.1.2.1 Fans

The fan for each unit should be sized to draw a desired air flow through the filters in the unit at a specified static pressure drop. The unit should have an air-handling capacity of 1,000 to 2,000 ft³/min (under "clean" filter conditions). The fan should be of the centrifugal type.

For large-scale abatement projects, where the use of a larger capacity, specially designed exhaust system may be more practical than several smaller units, the fan should be appropriately sized according to the proper load capacity established for the application, i.e.,

\[
\text{Total ft}^3/\text{min (load)} = \text{Volume of air in ft}^3 \times \text{air changes/hour divided by 60 min/hour}
\]

Smaller-capacity units (e.g., 1,000 ft³/min) equipped with appropriately sized fans and filters may be used to ventilate smaller work areas. The desired air flow could be achieved with several units.

L.2.1.2.2 Filters

The final filter must be the HEPA type. Each filter should have a standard nominal rating of at least 1,100 ft³/min with a maximum pressure drop of 1 inch H₂O clean resistance. The filter media (folded into closely pleated panels) must be completely sealed on all edges with a structurally rigid frame and cross-braced as required. The exact dimensions of the filter should correspond with the dimensions of the filter housing inside the cabinet or the dimensions of the filter-holding frame. The recommended standard size HEPA filter is 24 inches high with 24 inches wide x 11 1/2 inches deep. The overall dimensions and squareness should be within 1/4 inch.

A continuous rubber gasket must be located between the filter and the filter housing to form a tight seal. The gasket material should be 1/8 inch thick and 1/4 inch wide.

Each filter should be individually tested and certified by the manufacturer to have an efficiency of not less than 99.97 percent when challenged with 0.3-um dioctylphthalate (DOP) particles. Testing should be in accordance Military Standard Number 282 and Army Instruction Manual 136-390-175A.

Each filter should bear a UL586 label to indicate ability to perform under specified conditions.

Each filter should be marked with the name of the manufacturer, serial number, air flow rating, efficiency and resistance, and the direction of test air flow.

Prefilters, which protect the final filter by removing the larger particles, are

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Figure L-1 An example of a HEPA-filtered exhaust unit. This scheme is one of several possible designs.

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Exhaust

Intermediate filter

HEPA filter

Rubber gasket

Inlet

Prefilter
recommended to prolong the operating life of the HEPA filter. Prefilters prevent the premature loading of the HEPA filter. They can also save energy and cost. One (minimum) or two (preferred) stages of prefiltration may be used. The first-stage prefiltter should be a low-efficiency type (e.g., for particles 10 um and larger). The second-stage (or intermediate) filter should have a medium efficiency (e.g., effective for particles down to 5 um). Various types of filters and filter media for prefiltration applications are available from many manufacturers. Prefilters and intermediate filters should be installed either on or in the intake grid of the unit and held in place with special housings or clamps.

L2.1.2.3 Instrumentation

Each unit should be equipped with a Magnehelic gauge or manometer to measure the pressure drop across the filters and indicate when filters have become loaded and need to be changed. The static pressure across the filters (resistance) increases as they become loaded with dust, affecting the ability of the unit to move air at its rated capacity.

L2.1.3 Electrical

The electrical system should have a remote fuse disconnect. The fan motor should be totally enclosed, fan-cooled, and the electrical (or mechanical) lockout to prevent the fan from operating without a HEPA filter. Each unit may have temporary electrical power (215V AC). If necessary, three-wire extension cords can supply power to a unit. The cords must be in continuous lengths (without splice). In good condition, and should not be more than 100 feet long. They must not be fastened with staples, hung from nails, or suspended by wire. Extension cords should be suspended off the floor and out of workers’ access. The unit and its exhaust duct should be placed within an opposite wall), off the floor (preferably near the ceiling), and away from barriers that separate the work area from occupied clean areas. They should be rescaled whenever the negative pressure system is turned off after removal has started. Because the pressure differential (and ultimately the effectiveness of the system) is affected by the adequacy of makeup air, the number of auxiliary air inlets should be kept to a minimum to maintain negative pressure. Figure L-2 presents examples of negative pressure systems denoting the location of HEPA-filtered exhaust units and the direction of air flow.

L3.2 Use of the Negative Pressure System

L3.2.1 Testing the System

The negative pressure system should be tested before any lead-containing substrate is end or of the tubing is connected to the "low pressure" top of the instrument. The "high pressure" tap must be open to the atmosphere. The pressure is read directly from the scale. After the test is completed, the hole in the barrier must be patched. The HEPA filter should be replaced if the prefilter and/or intermediate filter replacement does not restore the pressure drop across the filters to its original clean state. If this is not possible, the HEPA filter becomes damaged. The exhaust unit is shut off to replace the HEPA filter, which requires removing the prefilter first, then opening the intake grill of filter access, and finally removing the HEPA filter from the unit. Used HEPA filters should be placed in a sellable plastic bag (appropriately labeled) and disposed of as lead waste. A new HEPA filter (structurally identical to the original filter) should then be installed. The intake grill and intermediate filter should be put back in place, the unit turned on, and the prefilter positioned on the intake grill. Whenever the HEPA filter is replaced, the prefilter and intermediate filter should also be replaced.
Figure L-2. Examples of negative pressure systems. DF, Decontamination Facility; EU, Exhaust Unit; WA, Worker Access; A, Single-room area with multiple windows; B, Single-room work area with single window near entrance; C, Large single-room work area with windows and auxiliary makeup air source (dotted arrow). Arrows denote direction of air flow. Circled numbers indicate progression of removal sequence.
When several exhaust units are used to ventilate a work area, any air movement through an inactive unit during the HEPA filter replacement will be into the work area. Thus, the risk of dust released to the outside environment is controlled. Any filters used in the system may be replaced more frequently than the pressure drop across the filters indicates is necessary. Prefilters, for example, may be replaced two to four times a day or when accumulations of particulate matter become visible. Intermediate filters must be replaced once every day or so, and the HEPA filter may be replaced at the beginning of each new project. (Used HEPA filters must be disposed of as lead containing waste.) Conditions in the work area dictate the frequency of filter changes. In a work area where fiber release is effectively controlled by thorough wetting and good work practices, fewer filter changes may be required than in work areas where the removal process is not well controlled. It should also be noted that the collection efficiency of a filter generally improves as particulate accumulates on it. Thus, filters can be used effectively until resistance (as a result of excreted particulate loading) diminishes the exhaust capacity of the unit.

L.3.2.3 Dismantling the System

When a final inspection and the results of final air tests indicate that the area has been decontaminated, all filters of the exhaust units should be removed and disposed of properly and the units shut off. The remaining barriers between contaminated and clean areas and all seals on openings into the work area and fixtures may be removed and disposed of as contaminated waste. A final check should be made to be sure that no dust or debris remain on surfaces as a result of dismantling operations.

Section I—Set Up Procedures For Abatement

1.0 Set-Up Procedures for Abatement

1.1 Safety Guidelines: Shut down or alter all electrical power sources and mechanical ventilation systems to affected areas prior to containment. Institute controls to avoid electric shock to workers in the control area. The Contractor shall abide by OSHA regulations, 29 CFR 1910.1025 which are included in the instruction to bidders.

1.2 Isolation of Work Areas: Prior to the preparation of a dwelling for abatement, the contractor shall place warning signs immediately outside all entering and exiting to the dwelling. Signage shall be labeled “CAUTION LEAD HAZARD, KEEP OUT” and be in bold letters at least 2 inches high. Signage shall also state the address of the dwelling being abated and date the abatement will commence. Signage shall be posted at least three (3) days prior to the commencement of abatement and shall remain until the work has been accepted by the Engineer. Signs stating that no smoking, eating or drinking in the work area shall also be posted.

1.3 Access to Units: The Contractor will not allow anyone access to the dwelling unless they have successfully passed the Lead Paint and Health Safety Training Course (See Section 2.1) and have been fitted and wearing a properly fitted respirator unless stated otherwise by the Engineer.

1.4 Protective Clothing: Furnish personnel exposed to airborne concentrations of lead dust with disposable protective whole body clothing, head coverings, gloves and foot coverings. Furnish disposable plastic aprons and gloves to protect hands for use during abatement methods requiring such. Cloth gloves may be worn inside the plastic or rubber gloves for comfort, but shall not be used alone. Use tape to secure sleeves at the wrists and to secure foot coverings at the ankles.

1.5 Work Clothing: Cloth work clothes must be taped to the removable protective coveralls. Cool vest for workers are recommended for use in temperatures above 100 degrees.

1.6 Pre-Cleaning of Housing Unit: The contractor shall preclean all surfaces with a HEPA vacuum and remove any furniture, curtains, carpet or other moveable objects. All debris gathered during this cleanup shall be disposed of in accordance with 3.6 and 3.7 of the contract documents.

1.7 Preparation of Interior Work Area: The contractor shall seal off all critical barriers including doors, vents, HVAC units, water, and plumbing to the house with 2 layers of 6 mil plastic. One layer of 6 mil plastic shall be applied to the floor and any walls not being abated. Tread guards on plastic can be added to prevent slipping. Plastic shall be installed with 2" duct tape, spray adhesive and industrial size staples. All joints must be free of moving or immovable objects such as cabinets, appliances, etc. shall be covered with one layer of plastic and have joints taped.

1.8 Preparation of Exterior Work Area: The contractor shall place 6 mil plastic on the ground extending out from the foundation at least 5 feet and an additional 3 feet per story to a maximum of 20 feet. The plastic shall be secured at the foundation by placing weights on the plastic. The edge of the plastic shall be elevated at both ends to trap all water and debris. All exterior doors and windows on any exterior wall that is being abated shall be covered with plastic. All shrubs and bushes shall be covered to prevent damages from liquid waste or dust.

1.9 Airlock Preparation: All entrances or doorways leading to and from the work area shall be controlled with a three (3) stage airlock. The airlock shall be comprised of one sheet of plastic taped and stapled on all four sides of the opening. This sheet shall then be split to allow passage through the entrance. Two sheets of plastic, one on each side of the split plastic sheet, shall be taped and stapled to the top of the opening and will hang down and fully cover the opening on both sides. The airlock shall be braced by wood or PVC. Airlocks shall also be constructed inside the building between rooms that are being abated and rooms that are not being abated.

1.10 Change Rooms: A decontamination area that is adjacent and connected to the abatement area for the decontamination of workers contaminated with lead shall be constructed. The decontamination shall consist of an equipment room, shower area, and clean room in series. Ensure that employees enter and exit the regulated area through the three (3) stage airlock decontamination area. A temporary unit shall provide for a separate decontamination locker room and a clean locker room for personnel required to wear whole body protective clothing. Provide two separate lockers for each lead worker, one in each locker room. Shower clothing and street shoes are to be stored in the clean locker. While still wearing the boundary of the lead work area HEPA vacuum and remove disposable protective clothing seal in impermeable bags or containers for disposal. Do not remove disposable protective clothing in the decontamination locker room. Remove cloth work clothing and respirators in the decontamination room. Tag and bag cloth work clothes for laundering and keep work shoes in the decontamination locker. Do not wear work clothing between home and work. Locate showers if required or wash facilities between the decontamination locker room and the clean locker room and require that all employees shower before changing into street clothes. Shower waste water shall be handled and disposed of as lead-contaminated material or shall be filtered through a final filter of at least 0.3 micron particle size collection capability before disposal into the sanitary sewer system. Handle and dispose of filters as lead-contaminated material. Clean lead-contaminated work clothing in accordance with 29 CFR 1910.1025. Change rooms shall be physically attached to the lead control area. (See Section 2.5 through 2.6 of the contract documents for filter information.)

1.11 Eye Protection: Furnish goggles to personnel engaged in lead operations when the use of a full face respirator is not required.

Section II—Worker Protection

2.0 Worker Protection

2.1 Training: Any worker entering a dwelling unit known to contain lead-based paint for the purpose of removing or disturbing lead-based paint must have successfully completed training in Lead Paint Abatement Health and Safety Training. The Engineer will provide a six (6) hour training course to all of the Contractor's employees who will work on the job. The training course will be repeated two times in order to work on the job site. Contractor will adhere to OSHA regulation CFR 1910.1200 and 1910.1025.
2.4.2 Goggles with side shields will be worn when working with a material that may splash or fragment, or if protective eye wear is specified on the Material Safety Data Sheet (MSDS) for that product.

2.4.3 Additional respiratory protection by supplemental filters, such as organic vapor cartridges, may be needed when handling some toxic products. Consult the (Material Safety Data Sheets) MSDS and obtain the proper filters as necessary.

2.5 Personal Hygiene Practices: The abatement contractor shall enforce and follow good personal hygiene practices during abatement. These practices will include but not be limited to the following:

2.5.1 Not eating, drinking, smoking, or applying of cosmetics in work area. The abatement contractor will provide a clean space, separated from the work area, for these activities.

2.5.2 All workers must wash upon leaving the work area. Wash facilities will be provided by the abatement contractor. This wash facility will consist of, at least, running water, soap, towels, and a HEPA vacuums. Upon leaving the work area, each worker will remove and dispose of work suit, wash and dry face and hands, and vacuum clothes.

2.5.3 Disposable clothing, such as TYYEK suits, and other personal protective equipment (PPE) must be donned prior to entering work area. A clean room will be provided for workers to put on suits and other personal protective equipment and to store their street clothes. Disposable suits shall be used once, then properly discarded.

2.5.4 A lavatory facility must be provided and located in the work area. The eating and drinking area, clean room, and the lavatory facility must be maintained in a clean and orderly fashion at all times. The contractor will provide portable lavatories when needed and disinfect them daily.

2.5.5 If air monitoring data, gathering by the engineer shows that employee exposure to airborne lead exceeds 50 ug/m³, the following actions will be taken:

1. All clothing will be laundered in accordance with 29 CFR 1910.134.

2. Respirators will not be removed until the engineer enters the work area.

3. Cleaning and decontamination work area.

4. Interim final clearance inspection will be followed. Detergent solutions should be replaced after each individual has been washed using HEPA vacuums as necessary.

5. Surfaces to be cleaned: Surfaces to be cleaned include ceilings, walls, floors, windows, fixtures (lights, bathroom, kitchen) of any kind, building, and appliances. All surfaces must be cleaned except those in rooms found free of lead, were not abated, were properly sealed, or were never entered during the abatement of the unit.
3.11 Final Clean Up and Inspection: The Contractor shall begin final cleanup no less than 24 hours after the abatement is complete. The entire dwelling unit shall be HEPA vacuumed, washed with a high phosphate detergent, and HEPA vacuumed again. The Engineer will then visually inspect the entire dwelling unit to ensure all abated surfaces and floors have been primed, painted or sealed. All disposable supplies used during clean up, such as mop heads, sponges, etc., shall be disposed of according to Section IV of the contract documents.

Section IV—Disposal of Waste Materials

Part IV. Disposal of Waste Materials

4.1 Testing on lead-based paint: The Contractor shall test the regional EPA, state, and local authorities to determine lead-based paint disposal requirements. The requirements of Resource Conservation and Recovery Act (RCRA) shall be complied with as well as applicable state solid waste plan requirements. The Engineer will supply the Contractor with the addresses of the appropriate regulatory agencies. This does not relieve the Contractor of the responsibility of contacting an appropriate regulatory agency. During the actual abatement, the Contractor shall not leave debris in the yard or nearby property, incinerate debris, dump waste in the road or in an unauthorized dumpster, or introduce lead-contaminated water into storm (will not be flushed down yard inlet or street drain) or sanitary sewers (will not be flushed down toilet or other household drain).

4.2 Testing on lead-based paint: The Contractor shall test the regional EPA, state, and local authorities to determine whether or not they are hazardous:
   1. paint chips (having a lead concentration more than 1% is considered hazardous.)
   2. waste water
   3. dust from HEPA filters and from damp sweeping
   4. woodwork, plaster, windows, doors, and other components removed from building
   5. plastic sheeting, etc., or used to cover floors and other services during the lead-based paint removal
   6. solvents and caustics used during the stripping process
   7. liquid waste, such as wash water used to decontaminate wood after solvents have been used, and liquid waste from exterior water blasting
   8. rags, sponges, mops, HEPA filters, respiratory cartridges, screens, and other materials used for testing, abatement, and cleanup
   9. disposable work clothes and respirator filters
   10. any other items contaminated with lead-based paint

4.3 Non-Hazardous Solid Waste (as determined by testing). The Contractor shall place lead-based paint chips, debris, and lead dust in double (4-mil) or single (6-mil) thick plastic bags and sealed.

4.4 The Contractor shall clean surfaces and equipment and big large debris. The Contractor shall then remove plastic sheeting and tape from covered surfaces. Prior to removing the plastic sheeting, the Contractor shall light a mist the sheeting in order to keep dust down and fold inward to form tight bundles to bag for disposal. The Contractor shall place all plastic sheeting in double (4-mil) or single (6-mil) thick plastic bags and seal.

4.5 The Contractor shall bag and seal vacuum bags and filters in double (4-mil) or single (6-mil) thick plastic bags.

4.6 The Contractor shall place all contaminated clothing or clothing covers used during abatement and cleaning in plastic bags for disposal prior to leaving equipment room.

4.7 The Contractor shall place solvent residues and residues from strippers in drums made out of materials that cannot be dissolved or corroded by chemicals. Solvents will be tested by the Engineer to determine if they are hazardous. Solvents, caustic and acid waste must be segregated and not stored in the same containers.

4.8 The Contractor shall contain and properly dispose of all liquid waste, including lead dust contaminated wash water.

4.11 The Contractor shall HEPA vacuum the exterior of all liquid waste containers. Prior to removing the waste containers from the work area, and shall wet wipe the containers to ensure that there is no residual contamination. Containers should then be moved out of the work area into the designated storage area.

4.12 The Contractor shall carefully place the containers into the truck or dumpster used for disposal.

4.13 The Contractor shall ensure that all waste is transported in covered vehicles to a landfill, or lined landfill, if available.

4.14 If the Contractor subcontracts the removing of the lead-based paint waste, he shall ensure that the company removing the waste material adequately covers all loads so as to assure that no dust or debris is released.

4.15 Disposal of Hazardous Waste (as determined by testing), The Contractor will be required to comply with the Resource Conservation and Recovery Act (RCRA) and with the provisions of Section VI.

4.16 The Contractor shall apply for an EPA identification number from the appropriate Regional EPA office; if more than 100 kg of hazardous waste will be generated from the abatement process during any calendar month. If less than 100 kg, the Contractor shall obtain provincial EPA generator number from each property address. The Engineer will assist the Contractor in contacting the appropriate EPA office to secure the identification.
4.17 Waste Containers: The Contractor will comply with EPA and DOT regulations for containers. The Contractor shall contact the state and local authorities to determine their criteria for containers. The more stringent regulation shall apply.

4.18 Waste Transportation: If the Contractor is not a certified hazardous waste transporter, a contract shall be entered into with a certified transporter to move the waste. The Contractor shall require the certified hazardous waste transport to follow RCRA regulation.

BILLING CODE 4210-33-M
EXAMPLE

APPENDIX 14.4

CERTIFICATION OF LEAD-BASED PAINT ABATEMENT COMPLETION

The __________________________ certifies that all units, common areas, and exteriors which were identified as containing lead-based paint hazards, as defined in the Lead-Based Paint Poisoning Prevention Act, as amended, have been abated in accordance with all Federal, State and local requirements.

_________________________________  __________________________
Date                                      Executive Director
APPENDIX 14.4

CERTIFICATION OF LEAD-BASED PAINT ABATEMENT COMPLETION

The __________________________ certifies that all units, common areas, and exteriors which were identified as containing lead-based paint hazards, as defined in the Lead-Based Paint Poisoning Prevention Act, as amended, have been abated in accordance with all Federal, State and local requirements.

___________________________  __________________________
Date                          Executive Director
CERTIFICATION OF LEAD-BASED PAINT ABATEMENT

The _______________________________ certifies that all units, common areas, and exteriors which are to be modernized and which have been determined to contain lead-based paint hazards, as defined in the Lead-Based Paint Poisoning Prevention Act, as amended, will be abated in accordance with all Federal, State and local requirements.

_________________________________  __________________________
Date                                     Executive Director

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Part III

Department of Transportation

Coast Guard

46 CFR Parts 10 and 15
Licensing of Officers and Operators for Mobile Offshore Drilling Units; Interim Final Rule
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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 15

[CGD 81-059a]

RIN 2115-AB51

Licenseing of Officers and Operators for Mobile Offshore Drilling Units

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of notice suspending effective date and interim final rule.

SUMMARY: This rulemaking deals solely with the licensing of officers on mobile offshore drilling units (MODUs) and the manning of these vessels. The licensing structure implements National Transportation Safety Board (NTSB) recommendations for the establishment of personal qualifications and manning regulations for this type of vessel. Compliance with these minimum standards will ensure that qualified individuals are on board to deal with marine safety related matters.

DATES: Comments must be received on or before June 16, 1990. This regulation is effective on July 1, 1990.

ADDRESSES: Comments should be submitted to: The Executive Secretary, Marine Safety Council (G-LRA-2), room 3600, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001. Between 8:00 a.m. and 3 p.m., Monday through Friday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-LRA 2), room 3600, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, (202)267-1477.

FOR FURTHER INFORMATION CONTACT:


SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Written comments should include the name and address of the person making them, identify this notice [CGD 81-059a], the specific section of the proposal to which the comment applies, and the reason for the comment. Persons desiring an acknowledgment that their comment has been received should enclose a stamped, self-addressed postcard or envelope. All comments received before expiration of the comment period will be considered before final action is confirmed.

Drafting Information

The principal drafters of this supplemental notice are: LCDR Gerald D. Jenkins, Office of Merchant Marine Safety, Security and Environmental Protection, and LCDR Gerald A. Gallion, Office of Chief Counsel.

Background

The Notice of Proposed Rulemaking to completely revise licensing regulations in part 10 of title 46, Code of Federal Regulations, published on August 8, 1983 (48 FR 35820) included proposed rules which formalized the special industry licenses and extended their application to all mobile offshore drilling units. As a result of comments received, a separate Supplemental Notice of Proposed Rulemaking concerning the licensing of officers on MODUs and the manning of these vessels was published on October 24, 1985 (50 FR 43865). The Coast Guard received generally good support from the mobile offshore drilling industry. Forty-five written comments were submitted and in addition the International Association of Drilling Contractors (IADC) provided the detailed MODU On-Board Marine Task Analysis Report. An Interim Final Rule was published on October 16, 1987 (52 FR 38660). The Coast Guard received generally good support from the mobile offshore drilling industry. The Coast Guard received fifteen written comments to the Interim Final Rule. These comments demonstrated that additional changes were necessary in order to adequately address several subjects. A notice suspending the Interim Final Rule’s effective date was published on February 28, 1989 (54 FR 8334) is withdrawn, effective July 1, 1990.

The Coast Guard agrees and has greatly enhanced the quality of the rulemaking comments: The Coast Guard is grateful for the effort expended by the offshore drilling industry and other interested parties in commenting on this rulemaking. The comments are on the whole clear, reasonable, and well documented. This interest and support has greatly enhanced the quality of the rulemaking.

1. Interim Final Rule: This rulemaking is being published as an Interim Final Rule (IFR). While no regulatory revisions are anticipated, an IFR will facilitate the submittal of additional comments to correct wording which may have established unintentional, and undesirable, requirements.

2. Conversion of existing MODU licenses: Comments were received which objected to the criteria proposed in the Supplemental Notice of Proposed Rulemaking (SNPR) for the conversion of existing Mobile Offshore Drilling Unit (MODU) licenses. Listed among the criteria were the requirements that an applicant for license conversion document a set period of service upon each MODU type applied for, show recency of service, and, for a license authorizing service underway, document a minimum number of rig moves.

These criteria were objected to for a number of reasons. Current Master MODU and Mate MODU licenses are not restricted by MODU type. If the proposed criteria were applied, the authority currently held by many of these licensed individuals would be reduced. In addition, the documentation of service would be an onerous administrative burden for companies, particularly when documenting the service of those licensed individuals who have moved on to supervisory duties ashore. Individuals whose previous companies have ceased operations may not be able to obtain the necessary service documentation.

While urging the deletion of service requirements for the conversion of a license, the comments continue to support the documentation of required training course completion.

The Coast Guard agrees and has therefore revised the proposed conversion criteria. Persons holding Master MODU licenses will not be required to be examined or show qualifying service. They will only be required to present evidence of having completed the appropriate required training courses to convert the license to Offshore Installation Manager (OIM). Unrestricted with the Barge Supervisor (BS) endorsement. Persons holding Mate MODU licenses will not be required to be examined. They will only be required to present evidence of six months service in a supervisory position subsequent to issuance of the Mate MODU license and completion of the
appropriate required training courses to convert the license to OIM Unrestricted with the BS endorsement. Persons holding Mate MODU licenses who are unable to document six months service in a supervisory position subsequent to license issuance, will be required to present evidence of having completed the appropriate required training courses to obtain a license endorsed as Barge Supervisor. These conversion criteria will, of course, mandate that companies verify that the licensed individual possesses the requisite skills and experience before being employed as OIM. It is anticipated that such verification will be made regardless of the individual's license.

Conversion of licenses can occur at any time after the effective date of the licensing requirements of the Interim Final Rule.

4. Effective dates of Interim Final Rule: The effective dates of the licensing and manning requirements of this Interim Final Rule have been staggered to permit the issuance of licenses for a period of six months before they will be required. The newly created licenses as OIM, BS, and BCO will be offered beginning on July 1, 1990. This will permit individuals to obtain original licenses or convert their current licenses before the manning requirements take effect. The manning requirements become effective on January 1, 1991. On the day the manning requirements take effect, only a valid license as OIM, BS, or BCO will be accepted. Vessel certificates of inspection will be revised as necessary.

5. Survival Suit and Survival Craft course: Comments were received which expressed a concern about the limited availability of Coast Guard approved Survival Suit and Survival Craft courses. The inability to schedule such a course was seen as likely to prevent many individuals from converting their licenses.

The Coast Guard agrees. The limited availability will also adversely impact upon those individuals seeking an original license. For that reason, prior to July 1, 1995, licenses will be issued and MODU licenses will be converted without this course being required. Such licenses will be endorsed on the reverse to indicate that, "A Coast Guard approved survival suit and survival craft course must be completed prior to receiving this license."

6. Single MODU license application evaluation office: The proposal to restrict MODU license application approvals to the Coast Guard Regional Examination Center (REC) New Orleans received strong support. Therefore, until July 1, 1992, all MODU license applications will be evaluated and approved by that REC. Applications may be submitted to and the required examinations may be administered at any REC.

7. Cost of rulemaking: One comment took exception with the economic evaluation of the rulemaking stating that the costs of the rulemaking had been underestimated. The comment cited considerable administrative costs to the marine industry; however, no specifics or estimates have been provided. The Coast Guard considers the cost figures contained in the evaluation to be valid.

8. Employment assigned to — service as: One comment pointed out that through the combined use of "employment assigned to" and "service as" the service requirements indicated in the SNPRM were in fact duplicative and resulted in a requirement for excessive supervisory experience. The Coast Guard agrees and has in many cases halved the minimum supervisory experience in the IFR.

9. Adding qualification for additional MODU types: Comments were received which discussed the appropriate required service for individuals holding a license for service on one type of MODU who seek to add the license endorsement for a different type of MODU, e.g., an individual holding a license as OIM Bottom Bearing Units on Location seeking an endorsement as OIM Surface Units on Location.

It was stated in the comments that no additional experience is required when shifting from surface to bottom bearing units. The drilling operations and the loading and stability considerations were seen by the commenters as much simpler on bottom bearing units. Any required experience in jacking or preloading systems, it was argued, could be learned in the few rig moves which would be required for underway endorsements. The Coast Guard agrees and has revised the IFR accordingly.

The comments stated that additional experience is appropriate when shifting from bottom bearing units to surface units, because the drilling operations and the loading, mooring, and stability considerations are more complex. However, the comments also stated that, in consideration of the training required for the license endorsement for surface units and the presence of a licensed Barge Supervisor, the required service proposed in the SNPRM is excessive to the needs of safety. The Coast Guard agrees and has revised the IFR accordingly.

10. Lifesaving: One comment stated that the Lifesavingman qualification required of an OIM, BS, and BCO was inappropriate and that applicants for these licenses develop the requisite skills in the required Survival Suit and Survival Craft course. In addition, the commenter felt that the one year of service required for a Lifesavingman endorsement would place an unnecessary time constraint on a license applicant seeking to obtain the required service for licensure. This was seen as particularly true for those individuals seeking an underway endorsement. The Coast Guard agrees and has revised the IFR accordingly.

11. Rig moves required for an underway endorsement: Comments were received discussing the appropriate number of rig moves directed, while under the supervision of an experienced rig mover, required for an individual to adequately acquire and demonstrate the requisite rig moving skill. It was stated that this number should vary depending upon the individual's long-term or trainee status, with the trainee being required to make additional moves to obtain experience comparable to that of the long-term employee. The Coast Guard agrees and has revised paragraphs 10.470 (f) and (j) accordingly.

12. Service periods: In recognition of the industry practice of assigning individuals to a work period of two weeks, the rulemaking has been revised to state required service periods of less than one year in multiples of fourteen days.

13. Master or Chief Mate obtaining OIM endorsement: In response to comments received, the Coast Guard has reduced the MODU service and rig move requirements for licensed Masters and Chief Mates seeking an OIM endorsement. These reductions vary depending upon the OIM endorsement sought and are considered justified in light of the seamanship skills the officers already possess.

14. Senior company official: Several sections of the SNPRM require the recommendation of a senior company official. A definition of "senior company official" has been included in the IFR to provide clarification as to who this individual must be.

15. Stability course for OIM Bottom Bearing Units on Location: Comments were received which disagreed with the need for a stability course for a license endorsement as OIM Bottom Bearing Units on Location. It was stated that the limited stability knowledge required could be adequately demonstrated by the inclusion of appropriate questions in the license examination. Having such a course requirement would be an unnecessary expense for small drilling
The Coast Guard has chosen not to adopt this recommendation. The Coast Guard believes this complicated license qualification scheme would receive little use and would not receive wide industry support.

19. Unlimited Chief Engineer of Any Horsepower: The International Association of Drilling Contractors' (IADC) comment urged that MODU engineers be allowed to advance to Chief Engineer of Any Horsepower, so as to allow service as Chief Engineer on a self-propelled unit.

The Coast Guard disagrees. Individuals holding a MODU engineer license and only serving on that type of vessel do not obtain the requisite experience with the wide variety of systems found on a conventional vessel and have not been examined on all these systems. Individuals seeking a Chief Engineer of Any Horsepower license, not restricted to MODUs, must advance through the grades of Third, Second, and First Assistant Engineer.

20. Assistant engineer (MODU) on drillships: The IADC comment urged that individuals holding a license as assistant engineer (MODU) be authorized to serve on drillships. In consideration of the increased qualifying service requirements in this IFR, the Coast Guard agrees and has revised the manning requirements of paragraph 15.520(j).

21. Examination requirements: Several changes have been made to Table 10.920-2, Subjects for MODU Licenses. These changes resulted from the analysis of required skills made by the contractor tasked with preparing the licensing examinations.

22. Ballast control operator on submersible units: The IADC comment urged that the proposed manning requirements be revised to exclude submersibles from the requirement to have a ballast control operator manning the control room while such a unit is under tow. In consideration of the nature of operations conducted in the submersible MODU control room, the Coast Guard agrees and has revised the IFR accordingly.

23. Accepted college degrees: Several comments urged the Coast Guard to expand the listing of degree programs which were substitutable for MODU service when qualifying for a license as OIM, BS, or BCO. There are several engineering degree programs, resulting in either a bachelor’s degree or associate’s degree, which develop the mathematical and engineering skills required by these license holders. Limiting the acceptance of degrees to marine engineering which is accredited by the Accreditation Board for Engineering and Technology (ABET) excludes several degree programs which have been traditionally used to fill the engineering staffs of drilling contractors.

The Coast Guard agrees and has adopted the wording, “A degree from a program in engineering or engineering technology which is accredited by the Accreditation Board for Engineering and Technology . . .”

Other comments urged that the regulations accept any accredited program, not just those accredited by ABET. This would permit the acceptance of foreign degree programs and programs which have not sought ABET acceptance.

The Coast Guard partially agrees. It is, however, unwilling to make a blanket acceptance of programs accredited by any organization. There are numerous accreditation organizations in existence which apply a wide range of standards for accreditation. The ABET is the only accreditation organization for engineering programs recognized by the U.S. Department of Education—reference, Nationally Recognized Accrediting Agencies and Associations, February 1989. It is likely that organizations offering engineering degree programs will seek ABET accreditation. All the comments have ABET accreditation.

To accommodate those individuals who have completed a program not accredited by the ABET, the regulations have been revised to permit Commandant (G-MVP) consideration for acceptance of education credentials from other programs.

24. Acceptance of blowout prevention and well control courses: Several comments were received on the regulatory provisions which accepted only U.S. Minerals Management Service (MMS) approved blowout prevention and well control courses. Those comments supported a loosening of that standard, pointing out that there are a number of non-approved training programs which provided similar training. The offshore drilling industry is frequently required by foreign nations to have its personnel attend training programs overseen by the foreign administrations. Failure to permit the substitution of this foreign training for MMS approved programs will result in some individuals being required to attend two training programs. Failure to accept this training will also mandate that, where industry personnel both work and reside overseas, the company or employee schedule and bear the costs of returning to the United States to receive training.

For a training program to be acceptable, the Coast Guard must have reason to believe that the training is effectively presented and adequately covers the subject material. In the case of the blowout prevention and well control training, the MMS approval provides this accreditation.
Comments proposed that the Coast Guard also accept certificates from IADC Co-Sponsored School programs or programs approved by the administration of a foreign coastal state. The Coast Guard is reluctant to accept industry accreditation because of a concern over the potential for abuse of the oversight authority, either by parties circumventing established industry oversight procedures or by industry organizations functioning as “diploma mills” without exercising appropriate oversight and control. Because of the potential for coastal state administrations to establish unacceptably low training standards or fail to exercise appropriate oversight and control, the Coast Guard is also reluctant to accept coastal state training as a substitute for the training required by this rule.

Comments are solicited on an acceptance by the Coast Guard of foreign blowout prevention and well control training programs.

25. Substitution of foreign nationals: At the request of the IADC, the following clarification is provided with regard to substitution of foreign nationals for licensed officers when U.S. Coast Guard certificated MODUs are operating in foreign waters. Current industry practice is to employ foreign nationals with equivalent qualifications as BS or BCO when operating at some overseas location. Coastal state regulations or policies sometimes require this. Current U.S. statutes and Coast Guard policy allow these substitutions when the MODU is deprived of the service of an individual (except the master and the radio officer) when on a foreign voyage, or when crewmember citizenship requirements have been waived for a particular MODU. Since the U.S. will be one of the first countries to issue MODU licenses, equivalent foreign licenses may not be available. Therefore, vessel operators will continue to be able to substitute foreign nationals with equivalent qualifications, experience and training at equivalent foreign schools, for the BS and BCO positions. Regulations relating to waiver of citizenship requirements for MODUs operating beyond the U.S. outer continental shelf were published on January 12, 1990 (55 FR 1210).

26. Arctic training: One comment urged that MODU officers in arctic, ice-affected areas be trained or experienced in arctic weather and ice operations. This training or experience would include structural design and the coordination of activities with ice engineers. The Coast Guard considers this knowledge to be an important factor in arctic operations. However, the knowledge is too specialized for inclusion within the license qualification process. The MODU operating firms should ensure that this expertise and training are provided.

27. Oil spill response training: One comment urged that OIMs be required to obtain training in oil spill response. The comment states that a basic familiarity with oil spill contingency plans, response procedures, and basic containment and cleanup techniques should be required. The Coast Guard believes that the appropriate requirements for oil spill contingency planning and response training have already been promulgated by the MMS in Title 30, Code of Federal Regulations §§ 250.42 and 250.43.

28. Qualifying supervisory positions: One comment urged that the supervisory positions considered as a qualification route to a license as OIM be limited to tool pusher, assistant tool pusher, driller, or barge supervisor. This was suggested because the OIM needs to be knowledgeable in well control procedures. The Coast Guard agrees that the OIM must possess this knowledge. However, the extended MODU employment and service requirements in combination with the required blowout prevention and well control course will impart this knowledge. The listing of qualifying supervisory positions is essentially that which has been in use since 1973.

29. Temporary licensing program: Several comments were received supporting the temporary licensing program as proposed in the SNPRM. It is felt that the program provides a reasonable time frame in which to mitigate the impact of the new licensing requirements on the offshore drilling industry. Qualified individuals in the industry will be afforded the opportunity to continue to utilize their valuable process while obtaining the required licenses. One comment objects to the temporary licensing concept. The comment states that these licenses provide, "... * an open door for the offshore drilling contractors to continue to operate MODUs without properly trained staff for a period of one to five years."

The Coast Guard disagrees, a similar program proved effective when initiating licensing requirements for the operators of offshore supply vessels.

30. Acceptance of foreign training courses: A number of comments were received urging that the Coast Guard permit the substitution of foreign training for the required training programs included in this rulemaking. The rulemaking requires that these courses be Coast Guard approved, or in the case of blowout prevention and well control, that the training program be MMS approved.

The Coast Guard does not currently approve foreign training programs. The approval process involves: an organization making application for the approval of a training program, see 46 CFR, subpart C; the Coast Guard reviewing for approval the curriculum, instructors, and facilities; and upon approval, the Coast Guard monitoring of the training program. Because of the significant increase in course approval activities likely to result, the Coast Guard believes that the matter of foreign course approvals should be the subject of a separate rulemaking.

Comments are solicited on the feasibility of Coast Guard “acceptance” of foreign training programs as satisfying the training requirements of this rulemaking. Acceptance would not involve the level of Coast Guard review given to approved training programs. As discussed in paragraph 24, this might involve the acceptance of training programs cosponsored by an industry organization or approved by a foreign coastal state.

31. Additional manning requirements: One comment stated that the regulations should require a barge engineer on self-elevating MODUs and a maintenance supervisor/assistant engineer on any nonself-propelled MODU. The Coast Guard disagrees and believes the requisite skills needed on board a MODU are available collectively through the combined skills of the OIM, BS, and BCO. The requirement for these additional licensed individuals is under consideration by the Subcommittee on Standards of Training and Watchkeeping of the International Maritime Organization. Action on this proposal is being deferred until this concept is further developed.

32. Manning scales: The proposed manning scales published in the SNPRM were reviewed and determined not to be consistent with standard manning practices. The revisions necessary to ensure consistency have been made, and the following manning scales will become part of the U.S. Coast Guard’s published policy in the Marine Safety Manual.

MODU Manning Scales

A. Drillsips underway—voyage of more than 72 hours

1—Master
1—Chief Mate
1—Second Mate
F. Self-propelled surface units (other than drillships) underway—voyage of more than 16 but not more than 72 hours

1—Master
2—Mates
4—Able Seamen
3—Ordinary Seamen (3)
1—Chief Engineer
2—Assistant Engineers (2)*
3—Oilers*

When engaged on a voyage of not more than 8 hours, the required crew may be reduced by 2 Able Seamen, 1 Ordinary Seaman, and 1 Oiler.

C. Drillships underway—voyage of not more than 16 hours

1—Master
1—Chief Engineer
2—Ordinary Seamen (3)
1—Radio Officer (If required by the FCC)
2—Assistant Engineers (2)*
3—Oilers*

D. Drillships on location

1—Master (With OIM endorsement)
1—Chief Engineer
2—Ordinary Seamen (3)
1—Radio Officer (If required by the FCC)
2—Assistant Engineers (2)*
3—Oilers*

E. Self-propelled surface units (other than drillships) underway—voyage of more than 72 hours

1—Master (With OIM endorsement)
1—Chief Mate (With BS or BCO endorsement)
2—Mates (With BCO endorsements)
6—Able Seamen (1)
3—Ordinary Seamen (3)
1—Radio Officer (If required by the FCC)
1—Chief Engineer
2—Assistant Engineers (2)*
3—Oilers*

J. Non-self-propelled bottom bearing units on location or under tow

1—Offshore Installation Manager
2—Able Seamen
1—Ordinary Seaman (3)
1—Ballast Control Operators
2—Able Seamen
1—Ordinary Seaman (3)

33. OIM MODU service requirements.

One comment to the SNPRM stated that the OIM qualification requirement that service be obtained on the particular type of MODU for which the individual is being licensed is excessive to the needs of safety. The commenter stated that no additional experience is required when shifting from surface to bottom bearing units. The loading, stability, and drilling operations are much simpler on bottom bearing units. The commenter believed that since the drilling, stability, and mooring systems of a surface unit are normally more complex than that of a bottom bearing unit, it is appropriate that some surface unit service be required. However, these systems will be addressed in the required blowout prevention and well control training, and the required stability course. In addition, semisubmersible units will have on board a barge supervisor skilled in stability matters. The Coast Guard agrees and has reduced the period of surface unit time required for an OIM license endorsed for surface units service.

* Variables based on degree and acceptance of automated systems. (1) Up to two specially trained ordinary seamen may be substituted for a maximum of two of the required able seamen provided section 23A.2 of Volume III of the Marine Safety Manual and Navigation and Vessel Inspection Circular 3-83 are satisfied.

(2) Individuals holding MODU engineer licenses may be substituted for the required licensed engineers at the discretion of the OCMO.

(3) The OCMO may consider the elimination of ordinary seamen on self-propelled units if the vessel meets the labor saving device criteria in section 23A.2. Volume III of the Marine Safety Manual, and, taking into consideration the specialized nature of the unit, the OCMO finds it safe to do so.
significant economic impact. The proposed rulemaking would not require any major expenditures by the maritime industry, consumers, Federal, state or local governments. The proposal would require individuals serving in certain responsible positions on MODUs of either the self-propelled or non-self-propelled type to obtain a Coast Guard issued license or endorsement that authorizes them to serve in the positions held. Implementation would not increase manning requirements on MODUs but rather would set a standard for training and experience for certain responsible positions. Persons holding these positions on MODUs will have to meet licensing qualifications including a particular level of experience on MODUs, completion of training courses, professional standards and professional examination. Most drilling companies already require high standards of experience and training for the people serving on their units.

The cost of the training that would be required by the proposal is summarized below. The total cost of $4.253,060 may be considered to be a one-time start-up cost with minimal additional costs in the ensuing years. Of course, anyone entering the mobile offshore drilling industry thereafter would be required to meet the same requirements; however, the mobile offshore drilling industry has been on a hiring plateau or decline for the past few years, and there appear to be no problems in drawing from the current pool of qualified personnel. The following factors will significantly reduce the total cost shown in the evaluation. It is, however, impractical to quantify the exact cost savings without polling every licensee and potential license holder in the industry:

(1) Through conversations with industry representatives, it was determined the proposed amounts of experience are reasonably equivalent to the level required of persons presently serving in positions of responsibility.

(2) Many assigned personnel also hold previously issued Coast Guard licenses as Master MODU (486 licenses issued), Mate MODU (61 licenses), Chief Engineer MODU (201 licenses) and Assistant Engineer MODU (28 licenses). By virtue of holding these licenses, they have met current Coast Guard qualification standards including experience, physical standards and professional examination. They may or may not meet the specialized sea service or training course requirements in this proposed rule. These rules require that present license holders meet the training course requirements in order to convert their licenses to a license under the new system; and,

(3) Many established drilling companies have designed and developed their own in-house training courses and facilities; therefore, these companies already train their personnel in courses similar to those required by the proposed rulemaking. While some costs must still be absorbed, such as loss of productive work, salary, travel and per diem, the actual cost of the training will be much less when provided by the parent company.

(4) The U.S. Minerals Management Service (MMS) already requires attendance at a training course for blowout prevention and well control training for persons in certain positions on MODUs. The Coast Guard will accept evidence of completion of the required MMS course as satisfying this training requirement.

The costs associated with licensing and qualification of the personnel in positions of responsibility on MODUs are relatively insignificant when compared to typical MODU construction costs and operating fees. Current estimates of construction range from $65-$70 million for a jack-up rig, $100-$120 million for a semi-submersible, and $55-$125 million for a drillship. Operating fees range widely from $15,000-$20,000 per day for jack-ups, $30,000-$40,000 per day for semi-submersibles, to $30,000-$40,000 per day for drillships. The training and qualifications contained in the proposal, which are strongly recommended by the National Transportation Safety Board, generally supported by the mobile offshore drilling industry, and under serious consideration internationally, will certainly be justified if they contribute to the prevention of the loss of even one MODU and its crew, or even minimize the down-time of an operating unit.

Summary of Costs

Training course costs and duration used in the computations are:

a. MODU stability—Cost estimates range from $700/student to $1,650/student; and the duration of the course is 5 days.

b. Blowout prevention or well-control training—Cost estimates ranged from $500/student to $750/student; and the duration of the course ranges from 3 to 5 days. Average is $875 and 4 days.

c. Survival suit and survival craft training—Cost estimates ranged from $225/student to $400/student; and the duration of the course ranges from 1 day to 3 days. Average is $313 and 2 days.

d. Basic and advanced firefighting training—Cost estimates are the same as noted in the preamble to the Interim Final Rule (52 FR 38660) published October 1987: cost estimates range from $100/student to $400/student; and the duration of the course is 5 days.

Average is $150 and 5 days.

e. First aid and cardiopulmonary resuscitation (CPR) training—Cost estimates is $55/student and the duration of the course ranges from 1 day to 2 days. Average is $55 and 2 days.

Training in first aid and CPR is a basic qualification requirement for all licenses and would be met by all who possess master, mate, or MODU licenses previously issued. Many companies already require first aid/CPR training for personnel. Firefighting training is already required of masters and mates. These considerations reduce the economic impact of the proposal.

Coast Guard statistics dated 1 August 1988 indicate a total of 223 active U.S. flag MODUs composed of:

Drillships: 2
Self-propelled semi-submersibles: 1
Non-self-propelled semi-submersibles: 42
Submersibles: 7
Jack-ups: 171

Therefore, the field of MODUs affected by this proposal is 3 self-propelled and 220 non-self-propelled units. The self-propelled units are manned by conventionally licensed personnel who already must obtain the specific types of training indicated above.

Cost estimates for required training for all licensed personnel on MODUs is determined in the following manner (standard industry practice with six months on and six months off schedule for each position = two individuals per officer position):

(a) Drillships: The proposed regulations only affect the training requirements for one officer and then only when the vessel is on location. When on location the master must hold a valid endorsement as OIM. Training costs associated with this class of vessel are: 2 (drillships) x 1 (licensed officer) x 2 (individuals per billet) x $2,163 (stability, drilling safety, and survival training) = $8,652.

(b) Self-propelled semi-submersibles: The proposed regulations require on average that three individuals serving on board hold MODU endorsements on their licenses. Training costs associated with this class of vessel are: 1 (vessel) x 3 (licensed officers) x 2 (individuals per billet) x $2,163 (stability, drilling safety, and survival training) = $12,978.

(c) Non-self-propelled semi-submersibles: The proposed regulations require that there be four MODU
Training costs associated with this class of vessel are: 42 (vessels) \times 4 (licensed officers) \times 2 (individuals per billet) \times$2,368 (stability, drilling safety, survival training, firefighting, and first aid/CPR) = $795,648.

The proposed regulations require that there be one MODU licensed individual serving on board. Training costs associated with this class of vessel are: 178 (vessels) \times 1 (licensed officer) \times 2 (individuals per billet) \times$2,368 (stability, drilling safety, survival training, firefighting, and first aid/CPR) = $843,008.

Combining the four MODU categories, the total cost for the training courses is: $8,652 + $12,978 + $795,643 + $943,008 = $1,662,301.

Estimated travel and per diem expenses should be considered, both to obtain the training and for the required visit to a regional examination center (REC). The total combined length of the training courses required by this proposal is approximately 11–18 days. It is estimated that a 1–3 days visit to an REC will be required to examine for the desired license. Application and processing may be done through the mail. A two-day visit to the REC was used in the calculations. A day of travel and per diem is also included for each training course and the visit to an REC.

Calculating the per diem and travel costs for each person is quite difficult. Many courses are offered by the company employer on the drilling site rather than moving the trainee to a school. An average per diem rate is approximately $85 per day. Travel is estimated to average $250 per person for each course or visit to an REC. The likely maximum per diem and travel costs are estimated as follows:

(a) Drillships: 4 (individuals) \times 13 (courses + 1 REC visit) \times$250 (travel) + 17 (days) \times$85 (per diem) = $8,700.

(b) Self-propelled semi-submersibles: 6 (individuals) \times (14 \times$250) + (17 + 85) = $14,470.

(c) Non-self-propelled semi-submersibles: 336 (individuals) \times (6 \times$250) + (26 + 85) = $1,246,560.

(d) Non-self-propelled bottom bearing: 350 (individuals) \times (6 \times$250) + (29 + 85) = $1,320,760.

Total travel and per diem costs = $2,591,770.

Combined training, travel, and per diem costs = $4,854,056.

The agency certifies that this proposal will not have a significant economic impact on a substantial number of small entities. These proposed rules apply to licenses for individuals only. The effect on training schools would be to formalize the requirements to attend such industry-specific training; presently, such training is often optional for the individuals serving on the MODU at the discretion of the owner/operator.

This proposed rulemaking contains information collection requirements in § 10.470, 10.472, 10.474, 10.542, and 10.544. With the exception of the requirement to submit course completion certificates for the blowout prevention and well control, survival suit and survival craft, and stability training courses, the proposed rule contains no new information collection requirements. The information collection requirements were submitted to the Office of Management and Budget for review under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and have been approved. The approval numbers are listed in title 46 Code of Federal Regulations, § 10.107. The collection requirements will only affect applicants for licenses in that they must make application for a license and provide certificates as evidence of required training. The certificate will be supplied by the training facilities which provide the course(s). The time required to comply with this requirement is inconsequential.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12812, and it has been determined that the proposed rules do not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

**List of Subjects**

46 CFR Part 10
- Seamen, Marine safety, Navigation (water), Passenger vessels.

46 CFR Part 15
- Seamen, Vessels.

In consideration of the foregoing the Coast Guard amends parts 10 and 15 to title 45, Code of Federal Regulations as set forth below:

**SUBCHAPTER B—MERCHANT MARINE OFFICERS AND SEAMEN**

**PART 10—LICENSING OF MARITIME PERSONNEL**

1. The authority citation for part 10 continues to read as follows:

Authority: 46 U.S.C. 2103, 7101, 7701, 8105; 46 CFR 1.43, 1.46. Section 10.107 also issued under the authority of 44 U.S.C. 3507.

2. The table of contents for part 10 is amended by revising the section heading for 10.470 and 10.540 and adding new sections 10.472, 10.474, 10.476, 10.542, and 10.544 to read as follows:

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.470</td>
<td>License for offshore installation manager.</td>
</tr>
<tr>
<td>10.472</td>
<td>License for barge supervisor.</td>
</tr>
<tr>
<td>10.474</td>
<td>License for ballast control operator.</td>
</tr>
<tr>
<td>10.476</td>
<td>Acknowledgments of service and temporary licenses for mobile offshore drilling units.</td>
</tr>
</tbody>
</table>

**Subpart D—Professional Requirements for Deck Officers’ Licenses**

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.540</td>
<td>License for engineers of mobile offshore drilling units.</td>
</tr>
<tr>
<td>10.542</td>
<td>License for chief engineer (MODU).</td>
</tr>
<tr>
<td>10.544</td>
<td>License for assistant engineer (MODU).</td>
</tr>
</tbody>
</table>

3. In § 10.103, the following definitions are added in alphabetical order to read as follows:

§ 10.103 Definitions of terms used in this part.

- **Ballast control operator (BCO)** is a licensed officer restricted to service on MODUs. The duties involve the operation of the complex ballast system found on many MODUs. A ballast control operator, when assigned to a MODU, is the equivalent of a conventionally licensed mate.

- **Barge supervisor (BS)** is a licensed officer restricted to service on MODUs. The duties involve support to the OIM in marine related matters including, but not limited to, maintaining watertight integrity, inspecting and maintaining mooring and towing components, and the maintenance of emergency and other marine related equipment. A barge supervisor, when assigned to a MODU is...
the equivalent of a conventionally licensed mate. 

Employment assigned to is the total period a person is assigned to work on MODUs, including time spent ashore as part of normal crew rotation.

Mobile offshore drilling unit (MODU) means a vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources. MODU designs include:

(a) Bottom bearing units which include:
  (1) Self-elevating (or jack-up) units with moveable, bottom bearing legs capable of raising the hull above the surface of the sea; and,
  (2) Submersible units of ship shape, barge type or novel hull design, other than a self-elevating unit, intended for operating while bottom bearing.

(b) Surface units with a ship shape or barge type, displacement hull of single or multiple hull construction intended for operating in a floating condition, including semi-submersibles and drillships.

Offshore installation manager (OIM) is a licensed officer restricted to service on MODUs. An assigned offshore installation manager is equivalent to a conventionally licensed master and is the person designated by the owner or operator to be in complete and ultimate command of the unit.

On location means that a mobile offshore drilling unit is bottom bearing or moored with anchors placed in the drilling configuration.

Senior company official means the president, vice president, vice president for personnel, personnel director, or similarly titled or responsible individual, or a lower level employee designated in writing by one of the aforementioned for the purpose of certifying employment and whose signature is on file at the REC at which application is made.

Service as when computing the required service for MODU licenses is the time period, in days, a person is assigned to work on MODUs, excluding time spent ashore as part of crew rotation. A day, for the purposes of this definition, is a minimum of four hours, and no additional credit is received for periods served over eight hours.

Underway means that a mobile offshore drilling unit is not in an on location or laid up status. Underway includes that period of time when the MODU is deploying or recovering its mooring system.

4. Section 10.107(b)(1) is revised to read as follows:


5. Section 10.201(f)(1) is revised to read as follows:

§ 10.201 Eligibility for licenses, general. *(f) *(1) A license as master of near coastal, Great Lakes and inland, inland, or river vessels of 25-200 gross tons, third mate, third assistant engineer, mate of vessels of 200-1000 gross tons, ballast control operator, assistant engineer (MODU), assistant engineer of fishing industry vessels, second-class operator of uninspected towing vessel, radio officer, assistant engineer (limited-oceans), or designated duty engine of vessels of not more than 4000 horsepower may be granted to an applicant who has reached the age of 19 years.

6. Section 10.205(f)(1) is revised to read as follows:

§ 10.205 Requirements for original licenses and certificates of registry. *(f) *(1) Each applicant for an original license shall submit written recommendations concerning the applicant's suitability for duty from a master and two other licensed officers of vessels on which the applicant has served. For a license as engineer or as pilot, at least one of the recommendations must be from the chief engineer or licensed pilot, respectively, of a vessel on which the applicant has served. For a license as engineer where service was obtained on vessels not carrying a licensed engineer and for a license as operator of uninspected towing vessels, the recommendations may be by recent marine employers with at least one recommendation from a master, operator, or person in charge of a vessel upon which the applicant has served. For a license as offshore installation manager, barge supervisor, or ballast control operator, at least one recommendation must be from an offshore installation manager of a unit on which the applicant has served. Where an applicant qualifies for a license through an approved training school, one of the character references must be an official of that school. For a license for which no commercial experience may be required, such as: Master or mate 25-200 gross tons, operator of uninspected passenger vessels, radio officer or certificate of registry, the applicant may have the written recommendations of three persons who have knowledge of the applicant's suitability for duty.

7. Section 10.468 is added to read as follows:

§ 10.468 Licenses for mobile offshore drilling units.

Licenses for service on mobile offshore drilling units (MODUs) authorize service on units of any gross tons upon ocean waters while on location or while underway, as restricted on the license, except when moving independently under their own power.

8. Section 10.470 is added to read as follows:

§ 10.470 Licenses for offshore installation manager.

(a) Licenses as offshore installation manager (OIM) are endorsed as:
  (1) OIM Unrestricted;
  (2) OIM Surface Units on Location;
  (3) OIM Surface Units Underway;
  (4) OIM Bottom Bearing Units on Location; or
  (5) OIM Bottom Bearing Units Underway.

(b) To qualify for a license or endorsement as OIM Unrestricted, an applicant must:
   (1) Present evidence of the following experience:
      (i) Four years of employment assigned to MODUs including at least one year of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator or equivalent supervisory position on MODUs, with a minimum of 14 days of that supervisory service on surface units; or
      (ii) A degree from a program in engineering or engineering technology which is accredited by the Accreditation Board for Engineering and Technology (ABET). Commandant (G-MVP) will give consideration to accepting education credentials from programs having other than ABET accreditation. An applicant qualifying through a degree program must also have at least 168 days of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator, or equivalent supervisory position on MODUs, with a
minimum of 14 days of that supervisory service on surface units; (2) Present evidence of training course completion as follows:
   (i) A certificate from a Coast Guard approved stability course approved for an OIM Unrestricted license or endorsement;
   (ii) A certificate from a Coast Guard approved survival suit and survival craft training course. Prior to July 1, 1995, the requirement may be waived at the license applicant's request. However, the license will be issued with an endorsement on the reverse side which states, "A Coast Guard approved survival suit and survival craft training course must be completed prior to license renewal."
   (iii) A certificate from a U.S. Minerals Management Service approved blowout prevention and well control training program for the driller, toolpusher, or operator representative position; and
   (iv) A certificate from a firefighting training course as required by §10.205(g) of this part; and

(3) Provide a recommendation signed by a senior company official which:
   (i) Provides a description of the applicant's experience and qualifications;
   (ii) Certifies that the individual has successfully directed, while under the supervision of an experienced rig mover, two rig moves each of surface units and of bottom bearing units; and
   (iii) Certifies that one of the rig moves required under paragraph (b)(3)(ii) of this section was completed within one year preceding date of application.

c) An applicant for an endorsement as OIM Unrestricted who holds an unlimited license as master or chief mate must satisfy the requirements in paragraph (d)(2) of this section and a recommendation signed by a senior company official which:
   (1) Provides a description of the applicant's experience and qualifications;
   (2) Certifies that the individual has successfully directed, while under the supervision of an experienced rig mover, three rig moves on surface units; and
   (3) Certifies that one of the rig moves required under paragraph (g)(2) of this section was completed within one year preceding date of application.

To qualify for a license as OIM Surface Units Underway, an applicant must:
   (1) Present evidence of the following experience:
      (i) Four years of employment assigned to MODUs including at least one year of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator or equivalent supervisory position on MODUs, with a minimum of 14 days of that supervisory service on surface units; or
      (ii) A degree from a program in engineering or engineering technology which is accredited by the Accreditation Board for Engineering and Technology (ABET). Commandant (G-MVP) will give consideration to accepting education credentials from programs having other than ABET accreditation. An applicant qualifying through a degree program must also have at least 160 days of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator or equivalent supervisory position of MODUs, with a minimum of 14 days of that supervisory service on surface units; and
   (2) Present evidence of training course completion as follows:
      (i) A certificate from a Coast Guard approved stability course approved for an OIM Surface Units license or endorsement;
      (ii) A certificate from a Coast Guard approved survival suit and survival craft training course. Prior to July 1, 1995, the requirement may be waived at the license applicant's request. However, the license will be issued with an endorsement on the reverse side which states, "A Coast Guard approved survival suit and survival craft training course must be completed prior to license renewal."
      (iii) A certificate from a U.S. Minerals Management Service approved blowout prevention and well control training program for the driller, toolpusher, or operator representative position; and
      (iv) A certificate from a firefighting training course as required by §10.205(g) of this part.

To qualify for a license as OIM Surface Units Underway who holds an unlimited license as master or chief mate must satisfy the requirements in paragraph (f)(2) of this section and provide a company recommendation signed by a senior company official which:
   (1) Provides a description of the applicant's experience and qualifications;
   (2) Certifies that the individual has successfully directed, while under the supervision of an experienced rig mover, five rig moves of surface units; and
   (3) Certifies that one of the rig moves required under paragraph (f)(1)(ii)(C) of this section was completed within one year preceding date of application; and

To qualify for an endorsement as OIM Bottom Bearing Units on Location, an applicant must:
   (1) Present evidence of the following experience:
      (i) Four years of employment assigned to MODUs including at least one year of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator or equivalent supervisory position on MODUs; or
      (ii) A degree from a program in engineering or engineering technology which is accredited by the Accreditation Board for Engineering and Technology (ABET). Commandant (G-MVP) will give consideration to accepting education credentials from programs having other than ABET accreditation. An applicant qualifying through a degree program must also have at least 160 days of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator or equivalent supervisory position of MODUs, with a minimum of 14 days of that supervisory service on surface units; and
   (2) Present evidence of training course completion as follows:
      (i) A certificate from a Coast Guard approved stability course approved for an OIM Surface Units license or endorsement;
      (ii) A certificate from a Coast Guard approved survival suit and survival craft training course. Prior to July 1, 1995, the requirement may be waived at the license applicant's request. However, the license will be issued with an endorsement on the reverse side which states, "A Coast Guard approved survival suit and survival craft training course must be completed prior to license renewal."
      (iii) A certificate from a U.S. Minerals Management Service approved blowout prevention and well control training program for the driller, toolpusher, or operator representative position; and
      (iv) A certificate from a firefighting training course as required by §10.205(g) of this part.

(a) An applicant for an endorsement as OIM Surface Units Underway who holds an unlimited license as master or chief mate must satisfy the requirements in paragraph (f)(2) of this section and provide a company recommendation signed by a senior company official which:
   (1) Provides a description of the applicant's experience and qualifications;
   (2) Certifies that the individual has successfully directed, while under the supervision of an experienced rig mover, three rig moves on surface units; and
   (3) Certifies that one of the rig moves required under paragraph (g)(2) of this section was completed within one year preceding date of application.
(b) To qualify for a license as OIM Surface Units Underway, an applicant must:
   (1) Present evidence of the following experience:
      (i) Four years of employment assigned to MODUs including at least one year of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator or equivalent supervisory position on MODUs, with a minimum of 14 days of that supervisory service on surface units; or
      (ii) A degree from a program in engineering or engineering technology which is accredited by the Accreditation Board for Engineering and Technology (ABET). Commandant (G-MVP) will give consideration to accepting education credentials from programs having other than ABET accreditation. An applicant qualifying through a degree program must also have at least 160 days of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator or equivalent supervisory position of MODUs, with a minimum of 14 days of that supervisory service on surface units; and
   (2) Present evidence of training course completion as follows:
      (i) A certificate from a Coast Guard approved stability course approved for an OIM Surface Units license or endorsement;
      (ii) A certificate from a Coast Guard approved survival suit and survival craft training course. Prior to July 1, 1995, the requirement may be waived at the license applicant's request. However, the license will be issued with an endorsement on the reverse side which states, "A Coast Guard approved survival suit and survival craft training course must be completed prior to license renewal."
      (iii) A certificate from a U.S. Minerals Management Service approved blowout prevention and well control training program for the driller, toolpusher, or operator representative position; and
      (iv) A certificate from a firefighting training course as required by §10.205(g) of this part.

To qualify for an endorsement as OIM Bottom Bearing Units on Location, an applicant must:
   (1) Present evidence of the following experience:
      (i) Four years of employment assigned to MODUs including at least one year of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator or equivalent supervisory position on MODUs; or
      (ii) A degree from a program in engineering or engineering technology which is accredited by the Accreditation Board for Engineering and Technology (ABET). Commandant (G-MVP) will give consideration to accepting education credentials from programs having other than ABET accreditation. An applicant qualifying through a degree program must also have at least 160 days of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator or equivalent supervisory position of MODUs, with a minimum of 14 days of that supervisory service on surface units; and
   (2) Present evidence of training course completion as follows:
      (i) A certificate from a Coast Guard approved stability course approved for an OIM Surface Units license or endorsement;
      (ii) A certificate from a Coast Guard approved survival suit and survival craft training course. Prior to July 1, 1995, the requirement may be waived at the license applicant's request. However, the license will be issued with an endorsement on the reverse side which states, "A Coast Guard approved survival suit and survival craft training course must be completed prior to license renewal."
      (iii) A certificate from a U.S. Minerals Management Service approved blowout prevention and well control training program for the driller, toolpusher, or operator representative position; and
      (iv) A certificate from a firefighting training course as required by §10.205(g) of this part.
(ABET). Commandant (G-MVP) will give consideration to accepting education credentials from programs having other than ABET accreditation. An applicant qualifying through a degree program must also have at least 188 days of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, subsea specialist, ballast control operator or equivalent supervisory position on MODUs; and

(C) Certifies that the individual has successfully directed, while under the supervision of an experienced rig mover, five rig moves of bottom bearing units; and

(D) Certifies that one of the rig moves required under paragraph [(ii)(i)(ii)(C)] of this section was completed within one year preceding date of application; and

(2) Present evidence of training course completion as follows:

(i) A certificate from a Coast Guard approved stability course approved for OIM Bottom Bearing Units license or endorsement;

(ii) A certificate from a Coast Guard approved survival suit and survival craft training course as required by § 10.205(g) of this part;

(iii) A certificate from a firefighting training course as required by § 10.205(g) of this part;

(iv) To qualify for a license or endorsement as OIM Bottom Bearing Units Underway, an applicant must:

(1) Present evidence of the following:

(A) Provides a description of the applicant's experience and qualifications;

(B) Certifies that the individual has successfully directed, while under the supervision of an experienced rig mover, three rig moves of bottom bearing units; and

(C) Certifies that one of the rig moves required under paragraph [(ii)(i)(ii)(B)] of this section was completed within one year preceding date of application; or

(ii) A recommendation signed by a senior company official which:

(A) Provides a description of the applicant's experience and company qualifications program completed;

(B) Certifies that the applicant has witnessed ten rig moves either as an observer in training or as a rig mover under supervision;
having other than ABET accreditation. An applicant qualifying through a degree program must also have at least 28 days of service as a trainee under the supervision of a licensed ballast control operator; and
(2) Present evidence of training course completion as follows:
(i) A certificate from a Coast Guard approved stability course approved for a barge supervisor or ballast control operator license or endorsement;
(ii) A certificate from a Coast Guard approved survival suit and survival craft training course. Prior to July 1, 1995, the requirement may be waived at the license applicant's request. However, the license will be issued with an endorsement on the reverse side which states, "A Coast Guard approved survival suit and survival craft training course must be completed prior to license renewal;", and
(iii) A certificate from a firefighting training course as required by § 10.205(g) of this part.
(b) An applicant for an endorsement as BCO who holds an unlimited license as master, mate, chief engineer, or assistant engineer must satisfy the requirements in paragraph (a)(2) of this section and have at least 28 days of service as a trainee under the supervision of a licensed ballast control operator.
11. Section 10.476 is added to read as follows:
§ 10.476 Acknowledgments of service and temporary licenses for mobile offshore drilling units.
(a) Prior to January 1, 1991, unlicensed individuals who served in positions on MODUs equivalent to OIM, BS, or BCO may make application for a Coast Guard acknowledgment of service or a temporary license, both of which authorize a continuation of service in that position. To be eligible, these individuals must have served in that position between July 1, 1987 and June 30, 1990, and meet the following requirements:
(1) Coast Guard acknowledgment of service.
(i) To obtain a Coast Guard acknowledgment of service, the applicant must provide a letter from a senior company official of the company worked for. This letter must provide:
(A) Name of vessel[s] served on;
(B) MODU license which the individual's position is equivalent to; and
(C) Period of service.
(ii) The Coast Guard acknowledgment of service is valid for one year and is not renewable.
(2) Temporary license.
To obtain a temporary license, the applicant must:
(A) Provide a letter from a senior company official of the company worked for. This letter must provide:
(1) Name of vessel(s) served on;
(2) MODU license which the individual's position is equivalent to; and
(3) Period of service; and
(B) Provide evidence of 120 days of service in a position equivalent to the license endorsement sought.
(i) A temporary license is valid for five years and is not renewable.
(2) Acknowledgments or temporary licenses obtained using the provisions of this section will restrict service authority to vessels operated by the company which has certified service.
12. Section 10.542 is added to read as follows:
§ 10.542 License for chief engineer (MODU).
To qualify for a license as chief engineer (MODU) an applicant must:
(a) Present evidence of the following experience:
(1) Six years of employment assigned to MODUs including 18 months of employment as mechanic, motorman, subsea engineer, electrician, barge engineer, toolpusher, unit superintendent, crane operator or equivalent. Eighteen months of that employment must have been assigned to self-propelled or propulsion assisted units; or
(2) Two years of employment assigned to MODUs as an assistant engineer (MODU). Twelve months of that employment must have been assigned to self-propelled or propulsion assisted units; and
(b) Present evidence of completion of a firefighting training course as required by § 10.205(g) of this part.
14. Section 10.544 is added to read as follows:
§ 10.544 License for assistant engineer (MODU).
To qualify for a license as assistant engineer (MODU) an applicant must:
(a) Present evidence of the following experience:
(1) Three years of employment assigned to MODUs including 18 months of employment as mechanic, motorman, subsea engineer, electrician, barge engineer, toolpusher, unit superintendent, crane operator or equivalent. Nine months of that employment must have been assigned to self-propelled or propulsion assisted units; or
(2) Three years of employment in the machinist trade engaged in the construction or repair of diesel engines and one year of employment assigned to MODUs in the capacity of mechanic, motorman, oiler, or equivalent. Nine months of that employment must have been assigned to self-propelled or propulsion assisted units; or
(3) A degree from a program in marine, mechanical, or electrical engineering technology which is accredited by the Accreditation Board for Engineering and Technology (ABET). Commandant (G-MVP) will give consideration to accepting education credentials from programs having other than ABET accreditation. An applicant qualifying through a degree program must also have at least six months of employment in any of the capacities listed in paragraph (a)(1) of this section aboard self-propelled or propulsion assisted units; and
(b) Present evidence of completion of a firefighting training course as required by §10.205(g) of this part.
15. Section 10.920 is added to read as follows:
§ 10.920 Subjects for MODU licenses.
Table 10.920-1 gives the codes used in Table 10.920-2 for MODU licenses. Table 10.920-2 indicates the examination subjects for each license by the code number.
Table 10.920-1 Codes for MODU Licenses
1. OIM/Unrestricted
2. OIM/Surface Units Underway
3. OIM/Bottom Bearing Units Underway
4. OIM/Surface Units on Location
5. OIM/Bottom Bearing Units on Location
6. Barge Supervisor
7. Ballast Control Operator

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<thead>
<tr>
<th>Table 10.920-2.—Subjects for MODU Licenses</th>
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<tr>
<td>Examination topics</td>
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<td>Watchkeeping</td>
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### TABLE 10.920-2.—Subjects for MODU Licenses—Continued

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### TABLE 10.920-2.—Subjects for MODU Licenses—Continued

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**Table 10.920-2 continued**

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15. Section 10.950 is amended by adding two columns to Table 10.950 marked to reference the existing subject list, which is republished herein for clarity, to read as follows.

§10.950 Subjects for engineer licenses.

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### TABLE 10.950.—Subjects for Engineer Licences—Continued

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**Notes:** P = Practical Knowledge; T = Theoretical Knowledge.

### PART 15—MANNING REQUIREMENTS

17. The authority citation for part 15 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3703, 6105; 49 CFR 1.45, 1.46.

18. Section 15.301 is amended by adding paragraphs (b)[8], (b)[9], and (b)[10] to read as follows:

**§ 15.301 Definitions of terms used in this part.**

* * * * * *

† (b) * * *

(a) Offshore installation manager (OIM);

(b) Barge supervisor (BS);

(c) Ballast control operator (BCO). * * *

19. Section 15.520 is revised to read as follows:

**§ 15.520 Mobile offshore drilling units.**

(a) The requirements in this section for mobile offshore drilling units (MODUs) supplement other requirements in this part.

(b) The OCMI determines the minimum number of licensed individuals and crew (including lifeboatmen) required for the safe operation of inspected MODUs. In addition to other factors listed in this part, the specialized nature of the MODU is considered in determining the specific manning levels.

(c) A license as offshore installation manager (OIM), barge supervisor (BS), or ballast control operator (BCO) authorizes service only on MODUs. A license or endorsement as OIM is restricted to the MODU type and mode of operation specified on the license.

(d) A self-propelled MODU other than a drillship must be under the command of an individual who holds a license as master endorsed as OIM.

(e) A drillship must be under the command of an individual who holds a license as master. When a drillship is on location, the individual in command must hold a license as master endorsed as OIM.

(f) A non-self-propelled MODU must be under the command of an individual who holds a license or endorsement as OIM.

(g) An individual serving as mate on a self-propelled surface unit other than a drillship must hold an appropriate license as mate and an endorsement as BS or BCO. An individual holding a license or endorsement as barge supervisor or ballast control operator may be substituted for a required mate when a self-propelled surface unit other than a drillship is on location or under tow, under certain circumstances as determined by the cognizant OCMI.

(h) An individual holding a license or endorsement as barge supervisor is required on a non-self-propelled surface unit other than a drillship.

(i) An individual holding a license or endorsement as barge supervisor may serve as ballast control operator.

(j) The OCMI issuing the MODU's certificate of inspection may authorize the substitution of chief or assistant engineer (MODU) for chief or assistant engineer, respectively, on self-propelled or propulsion assisted surface units, except drillships. The OCMI may authorize the substitution of assistant engineer (MODU) for assistant engineer on drillships.

(k) Requirements in this part concerning radar observers do not apply to non-self-propelled MODUs.

1. A surface mobile offshore drilling unit underway or on location, when adrift and equipped with a ballast control room, must have that ballast control room manned by an individual holding a license or endorsement authorizing service as ballast control operator.

20. Section 15.810 is amended by redesignating existing paragraphs (b)[2] through (b)[4] as (b)[3] through (b)[5], respectively; by revising paragraph (b)[1]; and by adding a new paragraph (b)[2] to read as follows:

**§ 15.81 Mates.**

* * * * * *

† (b) * * *

†(1) Vessels of 1000 gross tons or more (except MODUs)—three licensed mates (except when on a voyage of less than 400 miles from port of departure to port of final destination—two licensed mates).

†(2) MODUs of 1000 gross tons or more:

†(i) Three licensed mates when on a voyage of more than 72 hours.

†(ii) Two licensed mates when on a voyage of more than 16 but not more than 72 hours.

†(iii) One licensed mate when on a voyage of not more than 16 hours.

* * * * * *


J.D. Sipes,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security, and Environmental Protection.

[FR Doc. 90-8722 Filed 4-17-90; 8:45 am]

BILLING CODE 4910-14-M
Proposed Funding Priority—Fiscal Year 1990; Notice
The Secretary proposes this priority to ensure effective use of program funds and to direct funds to areas of identified need during fiscal year 1990.

DATES: Comments must be received on or before May 18, 1990.

ADDRESSES: Comments should be addressed to: Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, room 3095), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Linda Glidewell. Telephone: (202) 732-1009.

SUPPLEMENTARY INFORMATION: The purpose of this program is to support projects and centers for advancing the availability, quality, use, and effectiveness of technology, educational media, and materials in the education of children and youth with handicaps. In creating part G, Congress expressed the intent that the projects funded under this priority will have the potential to alleviate barriers to mobility, manipulation, communication, or instruction for learners who are handicapped. The high cost of research and development coupled with limited market potential have discouraged developers, particularly those in the private sector, from investing in prototype development for compensatory technology. The Office of Special Education Programs has funded a variety of projects in an effort to reduce the investment risk and thereby provide an incentive to developers who wish to introduce innovative technologies into the field.

Priority

This priority supports the development of innovative hardware or software technology that would improve access to education of learners with disabilities. In addition to the development of compensatory technology prototypes, this priority requires grantees to identify design principles, issues, and features that might be applicable to a variety of uses, settings, or target populations. Thus, even if the testing of a prototype were to yield mixed results, the project could yield information useful to other researchers and developers.

Projects funded under this priority must determine what functions need to be performed before learning can begin, as well as functions inherent in the tasks of learning. Projects must also determine students' functional limitations that could be addressed by technology. The determination of educational tasks and of learners' limitations could include behavioral, cognitive affective, or other functions that are germane to educational experiences.

Projects must match the identified needs or functional limitations and the demands of educational tasks with the functions and features of the proposed devices or support systems to be developed and, on that basis, build a compensatory technology prototype. If possible, projects are encouraged to use components or features from existing, "off-the-shelf" technologies or to adapt innovations from other sectors.

Projects must include testing of the prototype, or its primary design features to determine the soundness of the engineering, the adequacy of the design, whether it compensates for the disability for which the project is designed, whether it is feasible to operate and maintain in a school setting, and whether future production and distribution are feasible. The testing must also determine whether and how the use of this prototype is an improvement over existing technologies, and whether the prototype has the potential to become a marketable product.

Projects must indicate the potential target audiences that might be able to use features of the prototype design or the prototype itself. If the prototype is a marketable product, projects must identify developers or manufacturers with potential to produce the prototype. Projects must also disseminate information about design features, principles, and issues to researchers and developers in the field even if the testing of the prototype does not support the feasibility of using the prototype. This dissemination could be accomplished through presentations at meetings, publications, and the activities of national information centers.

Intergovernmental Review

The Technology, Educational Media, and Materials for the Handicapped Program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.


(Catalog of Federal Domestic Assistance Number 84.180, Technology, Educational Media, and Materials for the Handicapped Program)

Dated: March 1, 1990.

Lauro F. Cavazos,
Secretary of Education.

[FR Doc. 90-8926 Filed 4-17-90; 8:45 am]
BILLING CODE 4005-01-M
Part V

Department of Education

Office of Elementary and Secondary Education

34 CFR Parts 76, 77, and 298

Federal, State, and Local Partnership for Educational Improvement; Final Rule
DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Parts 76, 77, and 298

RIN 1810-AA49

Federal, State, and Local Partnership for Educational Improvement

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations in part 298 implementing the program entitled “Federal, State, and Local Partnership for Educational Improvement” in chapter 2 of title I of the Elementary and Secondary Education Act of 1965, as amended. This program replaces chapter 2 of the Education Consolidation and Improvement Act of 1981. The Secretary also makes certain provisions of the Education Department General Administrative Regulations (EDGAR) applicable to these regulations. Accordingly, the Secretary makes conforming changes to several sections in parts 76 and 77.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the Federal Register.


Chapter 2 of the ECIA consolidated over forty Federal education programs into a single authorization of grants to States for the same purposes as the antecedent programs but to be used in accordance with the educational needs and priorities of State and local educational agencies as determined by those agencies. State educational agencies (SEAs) had the basic responsibility for the administration of chapter 2 funds. Responsibility for the design and implementation of chapter 2 programs, however, rested mainly with local educational agencies (LEAs), school superintendents and principals, and classroom teachers and supporting personnel.

In reauthorizing chapter 2, Congress recognized that the program had been "successful in achieving the goals of increasing local accountability, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary education programs.” 20 U.S.C. 2911(a). As a result, Congress retained the basic framework of chapter 2, which places decisionmaking at the State and local levels. At the same time, however, Congress responded to criticism that chapter 2 was unfocused, provided insufficient accountability, and sometimes resulted in funds being used for general education purposes. Accordingly, Congress sought to make chapter 2 a better vehicle for school improvement by recasting the uses of funds in general terms, but with an identifiable theme of improving quality and promoting innovation.” H.R. Rept. 95,100th Cong., 1st Sess. 50 (1987).

Specifically, Congress identified six broad policy areas for which chapter 2 funds must now be targeted: Programs for at-risk students; programs to acquire and use instructional materials to improve the quality of instruction; innovative programs for schoolwide improvements, including effective school programs; programs of training and professional development; programs to enhance personal excellence of students and student achievement; and other innovative projects to enhance the educational program and climate of the school. Within those parameters, however, State and local educational agencies retain the flexibility to decide how to use their chapter 2 funds.

On March 1, 1988, the Secretary published a notice of proposed rulemaking (NPRM) for this program in the Federal Register [54 FR 8708]. The preamble also included a summary of the significant changes resulting from reauthorization. In the NPRM, the Secretary also proposed assisting States in improving financial accountability and consistency by making certain provisions of EDGAR applicable.

Analysis of Comments and Changes

In response to the Secretary’s invitation in the NPRM, sixty-five parties submitted comments on the proposed regulations. An analysis of the NPRM is published as an appendix to these final regulations. Substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes are not addressed.

Section 298.2[a][1][vi] of these final regulations makes applicable 34 CFR parts 85—Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants). A fuller discussion of how part 85 applies to the chapter 2 program is included in the appendix.

After extensive review of State comments, in the final rule the Secretary modified the applicability of EDGAR in ways that fully meet the substantive concerns of some States, while balancing the need for all States to have appropriate systems of financial accountability.

Executive Order 12291

These final regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Executive Order 12066

The Secretary certifies that these final regulations have been reviewed in accordance with Executive Order 12066 and that they do not have a significant negative impact on family formation, maintenance, and general well-being. To the contrary, the program governed by these regulations supports and strengthens the family by providing for systematic consultation with the parents of children attending elementary and secondary schools in the design, planning, and implementation of the program. Moreover, funds under this program may be used to foster parental involvement through such activities as conducting parent workshops, training parents to work with their children at home, and facilitating parent participation in school activities.

List of Subjects in 34 CFR Parts 76, 77, and 298

Administrative practice and procedure, Education, Elementary and secondary education, Grant programs—
education, Private schools, Reporting and recordkeeping requirements, State-administered programs.
(Catalog of Federal Domestic Assistance Number 84.151, Federal, State, and Local Partnership for Educational Improvement)
Laura F. Cavazos,
Secretary of Education.
The Secretary amends parts 76 and 77 and revises part 298 of title 34 of the Code of Federal Regulations as follows:
1. Part 298 is revised to read as follows:

PART 298—FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL IMPROVEMENT

Subpart A—How a State or Local Educational Agency Obtains Funds

§ 298.1 Purpose.
Under the Federal, State, and Local Partnership for Educational Improvement program (referred to in this part as the chapter 2 program), the Secretary provides Federal financial assistance to State and local educational agencies to—
(a) Provide the initial funding to implement promising educational programs that can be supported with State and local funds after those programs have been demonstrated to be effective;
(b) Provide a continuing source of innovation, educational improvement, and support for library and instructional materials;
(c) Meet the special educational needs of at-risk and high-cost students;
(d) Enhance the quality of teaching and learning through initiating and expanding effective schools programs; and
(e) Meet their educational needs and priorities for targeted assistance.

(Authority: 20 U.S.C. 291(b))

§ 298.2 Applicable regulations.
(a) The following regulations apply to the chapter 2 program:
(1) The Education Department General Administrative Regulations (EDGAR) as follows:
(A) Subpart A (General), except for § 76.3 (ED general grant regulations apply to these programs),
(B) Subpart B (State Advisory Committees),
(C) Section 76.125–76.137 (Consolidated Grant Applications for Insular Areas),
(D) Section 76.139 (Approval of an application—opportunity for a hearing),
(E) Subpart G (What Are the Administrative Responsibilities of the State and Its Subgrantees?) as follows:
(1) Section 76.703 (When a State may begin to obligate funds),
(2) Section 76.704 (When certain subgrantees may begin to obligate funds),
(3) Section 76.705 (Funds may be obligated during a “carryover period”),
(4) Section 76.706 (Obligations made during a carryover period are subject to current statutes, regulations, and applications),
(5) Section 76.707 (When obligations are made),
(6) Section 76.730 (Records related to grant funds),
(7) Section 76.734 (Record retention period),
(8) Section 76.740 (Protection of and accessibility to student records),
(9) Section 76.750 (More than one program may assist a single activity),
(10) Section 76.783 (State educational agency action—subgrantee’s opportunity for a hearing),
(11) Section 76.801 (Education Appeal Board),
(ii) 34 CFR part 77 (Definitions that Apply to Department Regulations),
(iii) 34 CFR part 78 (Education Appeal Board),
(iv) 34 CFR part 81 (General Education Provisions Act—Enforcement),
(v) 34 CFR part 82 (New Restrictions on Lobbying),
(vi) 34 CFR part 83 (Governmewide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)),
(2) The regulations in this part 298.
(b)(1) A State shall have fiscal and administrative requirements for expending and accounting for all funds received by SEAs and LEAs under this part. These requirements must be available for Federal inspection and must—
(i) Be sufficiently specific to ensure that funds received under this part are used in compliance with all applicable statutory and regulatory provisions;
(ii) Ensure that funds received under this part are only spent for reasonable and necessary costs of operating programs under this part; and
(iii) Ensure that funds received under this part are not used for general expenses required to carry out other responsibilities of State and local governments.

Subpart B—Project Requirements That a State or Local Educational Agency Must Meet

298.11 General responsibilities of State and local educational agencies.
298.12 Targeted assistance programs,
298.13 Use of funds by SEAs.
298.14 Evaluation and reports.
298.15 Use of funds by LEAs.
298.16 State applications.
298.17 Use of funds by subgrantees.
298.18 Insular Areas.
298.19 Consolidated Grant Applications for Insular Areas.

Subpart C—Fiscal Requirements That a State or Local Educational Agency Must Meet

Subpart D—How Children Enrolled in Private Schools Participate

Subpart E—Administration and Institutional Responsibilities

Authority: 20 U.S.C. 2911–2952, 2971–2976, unless otherwise noted.
§ 298.3 Definitions.

(a) Definition in the Elementary and Secondary Education Act of 1965. The following terms used in this part are defined in section 1471 of the Act:

Construction
Elementary school
Equipment
Free public education
Local educational agency (LEA)
Parent
Pupil services
Pupil services personnel
School facilities
Secondary School
Secretary
State
State educational agency (SEA)

(b) Definitions in EDGAR. The following terms used in this part are defined in 34 CFR 77.1:

Application
EDGAR
Fiscal year
Grant
Minor remodeling
Nonprofit
Private
Public

(c) Other definitions. The following definitions also apply to this part:

Act means the Elementary and Secondary Education Act of 1965, as amended (ESEA).

Chapter 2 means chapter 2 of title I of the Act.

§ 298.4 State advisory committee.

(a) Any State that desires to receive a grant under this part shall establish an advisory committee that meets the requirements in section 1522(a)(2) of the Act.

(b) An existing organization may be the advisory committee for the purpose of paragraph (a) of this section if the organization:

(1) Is not the SEA under State law;

(2) Is appointed by the Governor to be the advisory committee; and

(3) Meets the representation requirements of section 1522(a)(2) of the Act.

(c) The State advisory committee advises the SEA on—

(1) The allocation among targeted programs under $298.12 of funds reserved for State use under section 1512(a) of the Act;

(2) The formula for the allocation of funds to LEAs; and

(3) The planning, development, support, implementation, and evaluation of State programs assisted under this part.

(Authority: 20 U.S.C. 2932(a) (2))

§ 298.5 State applications.

(a) [1] Any State that desires to receive a grant under this part shall submit an application to the Secretary that meets the requirements in section 1522 of the Act.

(2) The application may be submitted in any form that the State determines is appropriate.

(b) [1] A State shall file its chapter 2 application for a period not to exceed three years.

(2) If a State that submits an application covering more than one year makes any substantial changes in its application, the State shall—

(i) File a new application; or

(ii) Annually amend its current application to reflect those changes.

(Approved by the Office of Management and Budget under control number 1810-0053)

(Authority: 20 U.S.C. 2932)

§ 298.7 Allocation of chapter 2 funds to LEAs.

(a) An SEA shall distribute to each LEA that has submitted an application as required in $298.6 the amount of its allocation as determined under paragraph (b) of this section.

(b) [1] From the funds made available to an SEA each year under this part, the SEA shall distribute not less than 80 percent to LEAs within the State according to the relative enrollments in public and private, nonprofit schools within the school districts of those agencies.

(2) The SEA shall—

(i) Calculate relative enrollments within each LEA on the basis of the total number of children enrolled for the fiscal year preceding the fiscal year in which the determination is made—

(A) Public schools in the LEA; and

(B) Private, nonprofit schools in the LEA that desire that their children participate in chapter 2 programs; and

(ii) Adjust those relative enrollments, in accordance with criteria approved by the Secretary under paragraph (d) of this section, to provide higher per pupil allocations only to LEAs that serve the greatest numbers or percentages of—

(A) Children living in areas with high concentrations of low-income families;

(B) Children from low-income families; or

(C) Children living in sparsely populated areas.

(c) The State shall include in its application under §298.5 the following information concerning adjustments under paragraph (b)(2)(i) of this section:

(1) How the State adjusted its formula;

(2) How the children under paragraph (b)(2)(ii) of this section are defined.

(3) The basis on which the State determined which LEAs serve the greatest percentages of the children described in paragraph (b)(2)(ii) of this section.
Compliance with chapter 2, an SEA may with a minimum of paperwork. This responsibility must be carried out programs assisted with chapter 2 funds. 

Except as provided in paragraph (l)(ii) of this section, an SEA has the § 298.11 General responsibilities of State (Authority: 20 U.S.C. 2922) Subpart B—Project Requirements That a State or Local Educational Agency Must Meet § 298.11 General responsibilities of State and local educational agencies. (a) State educational agencies. (1)(i) Except as provided in paragraph (ii)(i) of this section, an SEA has the basic responsibility for the administration and supervision of programs assisted with chapter 2 funds. This responsibility must be carried out with a minimum of paperwork.

(ii) Apart from providing technical and advisory assistance and monitoring compliance with chapter 2, an SEA may not exercise any influence in the decisionmaking processes of an LEA concerning the expenditures described in the LEA’s application.

(2) To carry out its responsibilities, an SEA may, in accordance with State law, issue rules, regulations, or policies relating to the administration and operation of programs funded under this part provided that those rules, regulations, or policies do not conflict with the provisions of—

(i) Chapter 2;

(ii) The regulations in this part, including the discretion granted to SEAs under paragraph (b) of this section; or

(iii) Other applicable Federal statutes and regulations.

(b) Local educational agencies. (1) An LEA has complete discretion, subject only to the limitations and requirements of chapter 2, in determining how funds the agency receives under section 1512 of the Act are distributed among the areas of targeted assistance in accordance with the LEA’s chapter 2 application.

(2) In exercising this discretion, the LEA shall ensure that each expenditure of chapter 2 funds—

(i) Carries out the purposes of chapter 2; and

(ii) Meets the educational needs within the schools of that LEA.

(Authority: 20 U.S.C. 2911(c), 2932, 2943(c))

§ 298.12 Targeted assistance programs. (a) Consistent with paragraph (b) of this section, chapter 2 funds may be used for the planning, development, operation, and expansion of the following:

(1) Programs to meet the educational needs of—

(i) Students at risk of failure in school;

(ii) Students at risk of dropping out of school; and

(iii) Students for whom providing an education entails higher than average costs.

(2) Programs for the acquisition and use of instructional and educational materials, including library books, reference materials, computer software and hardware for instructional use, and other curricular materials that would be used to improve the quality of instruction.

(3) Innovative programs designed to carry out schoolwide improvements, including effective schools programs under sections 1541–1542 of the Act.

(4) Programs of training and professional development to enhance the knowledge and skills of educational personnel, including teachers, librarians, school counselors, school social workers, school psychologists and other pupil services personnel, and administrators and school board members.

(5) Programs designed to enhance personal excellence of students and student achievement, including instruction in ethics, performing and creative arts, humanities, activities in physical fitness and comprehensive health education, and participation in community service projects.

(6) Innovative projects to enhance the educational program and climate of the school, including programs for gifted and talented students, technology education programs, early childhood education programs, community education and programs for youth suicide prevention.

(b) Except to purchase computer hardware for instructional purposes under section 1531(b)(2) of the Act, chapter 2 funds may not be used to purchase instructional equipment unless that instructional equipment is used as a part of a program under paragraph (a) of this section.

(c) In conducting targeted assistance programs under this section, an SEA or LEA may use chapter 2 funds to make grants to and to enter into contracts with LEAs, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

(Authority: 20 U.S.C. 2941–2942, 2951–2952)

§ 298.13 Use of funds by SEAs. (a) Authorized activities. An SEA may use chapter 2 funds reserved for State use only for—

(1) State administration of chapter 2 programs, subject to paragraph (b)(1)(i) of this section, including—

(i) Supervising the allocation of chapter 2 funds to LEAs; and

(ii) Planning, supervising, and processing chapter 2 funds reserved for State use;

(iii) Monitoring and evaluating chapter 2 programs and activities; and

(iv) Operating the State advisory committee.

(2) Assistance to LEAs to provide targeted assistance under § 298.12 in the form of—

(i) Direct grants to LEAs;

(ii) Statewide activities; and

(iii) Technical assistance.

(3) Assistance to LEAs and statewide activities, in accordance with paragraph (b)(2) of this section, to carry out effective schools programs under sections 1541–1542 of the Act.

(b) Limitations—(1) State administration. An SEA may not use more than 25 percent of the chapter 2 funds reserved for State use in any fiscal year for—

(i) Pupil services personnel, and

(ii) Except as otherwise provided in paragraph (b)(4) of this section.
year for State administration under paragraph (b)(1) of this section.

(2) Effective schools programs. (i) Except as provided in paragraph (b)(2)(ii) of this section, an SEA shall use at least 20 percent of the chapter 2 funds reserved for State use in any fiscal year for effective schools programs under sections 1541-1542 of the Act.

(ii) If a State is spending from non-Federal funds an amount equal to twice the amount required under paragraph (b)(2)(i) of this section, the SEA may request the Secretary to waive the requirement in that paragraph by submitting a written request that includes—

(A) The amount the State is spending from non-Federal funds for effective schools programs; and

(B) A description of those effective schools programs that addresses the factors in section 1542 of the Act.

(Approved by the Office of Management and Budget under control number 1810-0053).

(Authority: 20 U.S.C. 2931, 2941-2942, 2951-2952)

§ 298.14 Use of funds by LEAs.

(a) General. An LEA may use chapter 2 funds to support one or more of the targeted assistance programs under § 298.12.

(b) Special rules. (1) If an LEA receives additional chapter 2 funds as a result of adjusted allocations under § 298.7(b)(2)(i), the LEA may, at its discretion, use those funds either—

(i) To provide services to children enrolled in public and private, nonprofit schools in accordance with § 298.34(a)(2); or

(ii) To provide services only to children enrolled in schools—both public and private—in which children described in § 298.7(b)(2)(ii) are enrolled.

(2) If, in any fiscal year, an LEA uses chapter 2 funds under paragraph (b)(1)(ii) of this section, the LEA shall—

(i) Use all funds received as a result of adjusted allocations in that manner; and

(ii) Use in each school with children described in § 298.7(b)(2)(ii) the amount generated by those children who are enrolled in that school.

(3) An LEA is not required to use chapter 2 funds received under § 298.7(b)(2)(ii) to provide services to the children who generated those funds.

(Approval by the Office of Management and Budget under control number 1810-0053).

(Authority: 20 U.S.C. 2932(c)(2), 2941-2942, 2981-2982)

§ 298.15 Evaluations and reports.

(a) LEA responsibilities. (1) An LEA shall—

(i) Report annually to the SEA on the LEA’s use of funds under § 298.14; and

(ii) Make that report available to the public.

(2) The LEA shall provide other information to the SEA as reasonably may be required for fiscal audit and program evaluation consistent with the SEA’s responsibilities under this part.

(b) SEA responsibilities. (1) An SEA shall submit annually to the Secretary data on—

(i) The use of chapter 2 funds by the SEA and LEAs;

(ii) The types of services provided; and

(iii) The children to whom services were provided.

(2) In fiscal year 1992, the SEA shall—

(i) Evaluate the effectiveness of State and local programs conducted under this part;

(ii) Submit the evaluation to the State advisory committee for review and comment;

(iii) Make the evaluation available to the public; and

(iv) Submit a copy of the evaluation and a summary of the LEA’s reports under paragraph (a)(1) of this section to the Secretary.

(3) The SEA shall provide other information to the Secretary as may be required for fiscal audit and program evaluation.

(Approved by the Office of Management and Budget under control number 1810-0053).

(Authority: 20 U.S.C. 2932(a)(6)-(7), 2943(a)(4), 2973)

§§ 298.16-298.20 [Reserved]

Subpart C—Fiscal Requirements That a State or Local Educational Agency Must Meet

§ 298.21 Maintenance of effort.

(a) Basic standard. (1) Except as provided in § 298.22, the Secretary pays a State its full allocation of funds under this part if the Secretary finds that either the combined fiscal effort per student or aggregate expenditures for the second preceding fiscal year was not less than 90 percent of the combined fiscal effort per student or aggregate expenditures for the preceding fiscal year.

(2) Meaning of “preceding fiscal year.” For purposes of determining maintenance of effort, the “preceding fiscal year” is the Federal fiscal year or the twelve-month fiscal period most commonly used in a State for official reporting purposes prior to the beginning of the Federal fiscal year in which funds are available.

Example: For funds first made available on July 1, 1989, if a State is using the Federal fiscal year, the “preceding fiscal year” is fiscal year 1988 (which began on October 1, 1987) and the “second preceding fiscal year” is fiscal year 1987 (which began on October 1, 1986). If a State is using a fiscal year that begins on July 1, 1989, the “preceding fiscal year” is the twelve-month fiscal period ending on June 30, 1988 and the “second preceding fiscal year” is the period ending June 30, 1987.

(3)(i) Expenditures to be considered. The expenditures the Secretary considers in determining a State’s compliance with the maintenance of effort requirement in this paragraph are State and local expenditures for free public education. These include expenditures for administration, instruction, attendance, health services, pupil transportation, plant operation and maintenance, fixed charges, and net expenditures to cover deficits for food services and student body activities.

(ii) Expenditures not to be considered. The Secretary does not consider the following expenditures in determining a State’s compliance with the maintenance of effort requirement in this paragraph:

(A) Any expenditures for community services, capital outlay, or debt service.

(B) Any expenditures of Federal funds.

(b) Failure to maintain effort. (1) If a State fails to maintain effort and a waiver under § 298.22 is not appropriate, the Secretary reduces the State’s allocation of funds under this part in the exact proportion by which the State fails to meet 90 percent of both the State’s combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the State) for the second preceding fiscal year.

(2) In determining maintenance of effort for the fiscal year immediately following the fiscal year in which the State failed to maintain effort, the Secretary considers the fiscal effort for the second preceding fiscal year to be no less than 90 percent of the combined fiscal effort per student or aggregate expenditures (using the measure most favorable to the State) for the third preceding fiscal year.

Example: In Federal fiscal year 1990, a State fails to maintain effort because its fiscal effort in the preceding fiscal year (1988) is less than 90 percent of its fiscal effort in the second preceding fiscal year (1987). In assessing whether the State maintained effort during the next fiscal year (1991), the Secretary considers the State’s expenditures for the second preceding fiscal year (1988) (the year that caused the State’s failure to maintain effort) to be no less than 90 percent of the State’s expenditures in the prior fiscal year (1987).

(Authority: 20 U.S.C. 2971(a))
§ 298.22 Waiver of the maintenance of effort requirement.

(a) Waiver request. A State that has not maintained its fiscal effort as required in § 298.21(a) may ask the Secretary to grant a waiver of that requirement by submitting a waiver request that includes—

(1) A statement of the combined fiscal effort per student and the aggregate expenditures for the two fiscal years being compared; and

(2) A description of the circumstances that the State considers to be exceptional or uncontrollable.

(b) Secretary’s criteria. (1) The Secretary may grant a waiver, for one year only, of the maintenance of effort requirement in § 298.21(a) if the Secretary determines that the waiver is equitable due to exceptional or uncontrollable circumstances. Exceptional or uncontrollable circumstances include—

(i) A natural disaster;

(ii) A precipitous and unforeseen decline in the financial resources of the State; or

(iii) Other exceptional or uncontrollable circumstances.

(2) The Secretary does not consider tax initiatives or referenda to be exceptional or uncontrollable circumstances.

(c) Effect of a waiver. (1) If the Secretary grants a waiver under paragraph (b) of this section, the Secretary allocates to the affected State its full allocation of chapter 2 funds.

(2) In determining maintenance of effort for the fiscal year immediately following the fiscal year for which the waiver was granted, the Secretary considers the fiscal effort for the second preceding fiscal year to be no less than 90 percent of the combined fiscal effort per student or aggregate expenditures (using the measure most favorable to the State) for the third preceding fiscal year.

Example: In Federal fiscal year 1989, a State secures a waiver because its fiscal effort in the preceding fiscal year (1988) is less than 90 percent of its fiscal effort in the second preceding fiscal year (1987) due to exceptional or uncontrollable circumstances. In assessing whether the State maintained effort during the next fiscal year (1991), the Secretary considers the State’s expenditures for the second preceding fiscal year (1988) (the year for which the State needed a waiver) to be no less than 90 percent of the State’s expenditures in the prior fiscal year (1987).

(2) Except as provided in § 298.24, a waiver under § 298.21 for the fiscal year in which the waiver was granted will apply for the fiscal years immediately following that year.

[Approved by the Office of Management and Budget under control number 1810-0063]

(Authority: 20 U.S.C. 2971(a))

§ 298.23 Supplement—not-subsitute.

An SEA or LEA that receives chapter 2 funds—

(a) May use and allocate those funds only for programs similar to those covered under this chapter and to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under chapter 2, be made available from non-Federal sources; and

(b) May not use chapter 2 funds to supplant funds from non-Federal sources.

(Authority: 20 U.S.C. 2971(b))

§§ 298.24–298.30 [Reserved]

Subpart D—How Children Enrolled in Private Schools Participate

§ 298.31 Responsibility of SEAs and LEAs.

(a) An LEA shall provide children enrolled in private schools in that LEA with secular, neutral, and nonideological services, materials, and equipment or other benefits that will ensure equitable participation.

(b) An LEA shall provide the opportunity to participate in a manner that is consistent with the number and needs of private school children in the school district of the LEA.

(2) The LEA shall exercise administrative direction and control over chapter 2 funds and property that benefit children enrolled in private schools.

(c) Provision of services to children enrolled in private schools must be provided by employees of a public agency or through contract by the public agency with a person, association, agency, or corporation that, in the provision of those services, is independent of the private school and of any religious organization.

(d) This employment or contract must be under the control and supervision of the public agency.

(1) An SEA shall—

(i) Ensure that each LEA complies with the requirements of §§ 298.32–298.37.

(ii) If no chapter 2 project is carried out by an LEA, make arrangements—such as through contracts with nonprofit agencies or organizations—under which children in private schools in that LEA are provided with services and materials to the extent that would have occurred if the LEA had received chapter 2 funds.

(2) If an SEA conducts instructional programs or personnel training programs, it shall comply with these requirements as if it were an LEA.

(c) Under sections 1522(a)(3)(B) and 1533(a)(1)(B) of the Act, an application by an SEA or LEA must contain the planned allocation of funds required to implement section 1572.

(d) In accordance with section 1572(a)(1) of the Act, the regulations in this subpart only apply to children enrolled in private, nonprofit elementary and secondary schools.

(Authority: 20 U.S.C. 2972)

§ 298.32 Consultation with private school officials.

In order to receive chapter 2 funds, an LEA shall—

(a) Contact annually appropriate officials from private schools within the area served by the LEA to determine whether those officials desire that their children participate in the chapter 2 program;

(b) With respect to those officials in schools with children who will participate, consult regarding the development and implementation of the chapter 2 program before the LEA makes any decision that affects the opportunities of private school children to participate in the program.

(Authority: 20 U.S.C. 2972)

§ 298.33 Needs, number of children, and types of services.

An LEA shall determine the following matters on a basis comparable to that used by the LEA in providing for participation of public school children:

(a) The number of children enrolled in private schools.

(b) The number of those children who will participate in the chapter 2 program.

(c) The chapter 2 services that the LEA will provide to those children.

(Authority: 20 U.S.C. 2972)

§ 298.34 Factors used in determining equitable participation.

(a) Equal expenditures. (1) Expenditures for chapter 2 programs for children enrolled in private schools must be equal (consistent with the number of children to be served) to expenditures for chapter 2 programs for children enrolled in the public schools of an LEA, taking into account the needs of the individual children and other factors that relate to such expenditures.

(2) Except as provided in § 298.14(b)(1)(ii), in determining whether expenditures are equal under paragraph (a)(1) of this section, an LEA—

(i) May not take into account the extent to which children in private schools generated a portion of the LEA’s allocation under § 298.7(b)(3)(ii); but

(ii) May take into account differences in the costs per child of meeting the...
needs of the individual children to be served and other factors that relate to these expenditures, as provided in paragraph (a)(1) of this section.

(b) Services on an equitable basis. (1) In addition to meeting the equal expenditures requirement in paragraph (a) of this section, an LEA shall provide for the participation in the chapter 2 program of children enrolled in private schools on an equitable basis.

(2)(i) In determining whether an LEA is providing for participation on an equitable basis, the services provided to private school children and the services provided to public school children are considered.

(ii) If an LEA uses chapter 2 funds to concentrate programs for public school children on a particular group, attendance area, or grade or age level, the LEA shall ensure equitable opportunities for participation by children enrolled in private schools who—
(A) Have the same needs as the public school children to be served; and
(B) Are in that group, attendance area, or grade or age level.

(iii) If the needs of children enrolled in private schools are different from the needs of children enrolled in public schools, an LEA shall provide chapter 2 services for the private school children that address their needs on an equitable basis.

(2) (A) The equipment or supplies are no longer needed for chapter 2 purposes; or
(B) The use of the equipment or supplies for non-Federal purposes results in the equipment or supplies being no longer available for chapter 2 purposes.

(d) The public agency shall remove equipment or supplies from a private school if—
(1) The equipment or supplies are no longer needed for chapter 2 purposes; or
(2) Removal is necessary to avoid unauthorized use of the equipment or supplies for other than chapter 2 purposes.

(e) For the purpose of this section, the term “public agency” includes the LEA.

(Authority: 20 U.S.C. 2972)

§ 298.37 Construction.

(a) No chapter 2 funds may be used to perform repairs, minor remodeling or construction of private school facilities.

(b) An LEA may use chapter 2 funds to perform repairs, minor remodeling, or construction of public facilities as may be necessary to carry out its responsibilities under this subpart.

(Authority: 20 U.S.C. 2972)

§ 298.38 Bypass.

(a) The Secretary implements a bypass if an SEA or LEA—
(1) Waives an SEA’s or LEA’s responsibility for providing chapter 2 services for private school children and arrangements to provide the required services; or
(2) Consults with appropriate public and private school officials; and
(3) Deducts the cost of these services, including any administrative costs, from the appropriate allotment of chapter 2 funds provided to the State.

(b) If the Secretary implements a bypass, the Secretary—
(1) Waives an SEA’s or LEA’s responsibility for providing chapter 2 services for private school children and arranges to provide the required services;
(2) Consulls with appropriate public and private school officials; and
(3) Deducts the cost of these services, including any administrative costs, from the appropriate allotment of chapter 2 funds provided to the State.

(c) Pending the final resolution of an investigation or a complaint that could result in a bypass action, the Secretary may withhold from the allocation of the affected SEA or LEA the amount the Secretary estimates is necessary to pay the cost of the services referred to in paragraph (b) of this section.

(Authority: 20 U.S.C. 2972 [d], [e], [g])

§§ 298.39-298.40 [Reserved]

PART 76—STATE-ADMINISTERED PROGRAMS

2. The authority citation for part 76 is revised to read as follows:

Authority: 20 U.S.C. 1221e-3(a)(1), 2801(a), 2974(b), and 3474. unless otherwise noted

§ 76.1 [Amended]

3. Section 76.1 is amended by removing paragraph (c) and by revising the authority citation at the end of the section to read as follows:

(Authority: 20 U.S.C. 1221e-3(a)(1), 2801(a), 2974(b), and 3474)

4. Section 76.401 is amended by adding a new paragraph (a)(6) to read as follows:

§ 76.401 Disapproval of an application—opportunity for a hearing.

(a) * *

(b) Federal, State, and Local Partnership for Educational Improvement.

* * * *

5. Section 76.563 is revised to read as follows:

§ 76.563 Restricted indirect cost rate—programs covered.

If a State or a subgrantee decides to charge indirect costs to a program that has a statutory requirement prohibiting the use of Federal funds to supplant non-Federal funds, the State or subgrantee shall use a restricted indirect cost rate computed under 34 CFR 75.564–75.568.

(Authority: 20 U.S.C. 1221e-3(a)(1), 2801(a), 2974(b))

§ 76.734 [Amended]

6. Section 76.734 is amended by removing “Unless a longer period is required under 34 CFR part 74, a” and adding “A” in its place.

§§ 76.2, 76.50, 76.51, 76.401, 76.500, 76.532, 76.533, 76.534, 76.535, 76.536, 76.703, 76.704, 76.707, and 76.760 [Amended]

7. The authority citations for the following sections are amended by adding “, 2974(b)” before the final parenthesis:

§ 76.2

§ 76.50

§ 76.51

§ 76.401

§ 76.500

§ 76.532

§ 76.533

§ 76.534

§ 76.600

§ 76.703

§ 76.704

§ 76.707

§ 76.760

§ 76.125 [Amended]

8. The authority citation for § 76.125 is amended by adding, before “and”, “2974(b)”.

* * *
§ 76.707 [Amended]
9. The table in § 76.707 is amended by removing “under the cost principles in appendices C-F to 45 CFR part 74” in paragraph (h).
10. The following undesignated cross-references are removed from part 76.
   (a) The cross-references following § 76.50, 76.365, 76.530, 76.702, and 76.734.
   (b) The cross-references preceding § 76.140–76.142, 76.600, 76.682–76.690, 76.720–76.722, 76.730–76.734, 76.770–76.772, and 76.300–76.910.

PART 77—DEFINITIONS THAT APPLY TO DEPARTMENT REGULATIONS

11. The authority citation for part 77 is revised to read as follows:
   Authority: 20 U.S.C. 1221e–3(a)(1), 2831[a], 2974(b), and 3474, unless otherwise noted.

§ 77.1 [Amended]
12. The authority citation following § 77.1 is revised to read as follows:
   (Authority: 20 U.S.C. 1221e–3(a)(1), 2831[a], 2974(b), and 3474)

Note: This appendix will not be codified in the Code of Federal Regulations.

Appendix—Analysis of Comments and Changes

Section 289.1—Purpose
Comment: A number of commenters requested clarification of the terms “initial funding” in § 286.1(a) and “continuing source” in § 286.1(b). The commenters questioned whether the language in § 286.1(a) limits the period of time for which an activity can be conducted with Chapter 2 funds or whether Chapter 2 is to be a continuing source of funding for an activity.

Discussion: There is no specific limitation on the length of time Chapter 2 funds may be used to support a program. Section 286.1 accurately states the purpose of Chapter 2 as articulated in section 1531(b) of the Act. To provide the initial funding to implement promising educational programs that can be supported by State and local sources of funding after those programs are demonstrated to be effective, to provide a continuing source of innovation, improvement, and support for library and instructional materials, to meet the special educational needs of at-risk and high-cost students, and to enhance the quality of teaching and learning through effective school programs; and to allow SEAs and LEAs to meet their educational needs and priorities for targeted assistance. No part of this section takes precedence over any other part. Rather, it offers options to an LEA. The LEA must, however, use Chapter 2 funds for a targeted assistance program as described in section 3331(b) of the Act.

Changes: None.

Section 289.2—Applicable Regulations
Comment: Several commenters recommended that the final regulations clarify the extent to which construction is an allowable cost under chapter 2.

Discussion: Section 76.533 of the Education Department General Administrative Regulations (EDGAR) sets forth the general rule concerning construction—namely, that no SEA or LEA may use funds “for acquisition of real property or for construction unless specifically permitted by the authorizing statute or implementing regulations for the program.” With one limited exception, neither the chapter 2 statute nor the final regulations permits the use of chapter 2 funds for acquisition of real property or for construction. Therefore, under § 76.533, chapter 2 funds generally may not be used for those purposes. The exception is contained in section 157.2(a) of chapter 2 and § 286.37 of the final regulations. These provisions authorize a LEA to use chapter 2 funds to perform repairs, minor remodeling, or construction of public facilities as may be necessary to maintain the capabilities to provide equitable chapter 2 services to private school children. In this limited circumstance, the provisions of §§ 76.600 and 76.682–76.690, 76.712–76.720, and 76.300–76.910, under the cost principles in EDGAR, are applicable to chapter 2.

Changes: None.

Comment: A number of commenters received their comments on § 286.2 concerning the applicability of selected sections of the Education Department General Administrative Regulations (EDGAR). One commenter recommended that the section be deleted because the commenter believed the Education Consolidation and Improvement Act (ECIA) regulations are required for chapter 2 to be issued by EDGAR. One commenter applauded the use of EDGAR to provide direction and clarification. One commenter recommended that States be allowed to use its own standards for fiscal control and accountability of chapter 2 funds. Several commenters recommended that § 76.730 of EDGAR not be made applicable to chapter 2, or modified to make its inclusion would be duplicative of other fiscal control requirements in chapter 2.

Discussion: Congress intended, when it enacted chapter 2 of the ECIA, to greatly reduce the enormous administrative and paperwork burden imposed on schools at the expense of their ability to educate children. In keeping with this purpose, the Department decided not to make the provisions of EDGAR applicable to chapter 2 of the ECIA, even though the statute did not preclude their applicability. During the seven years that EDGAR has not been applicable to chapter 2 of the ECIA, a number of States have incurred audit exceptions concerning fiscal control and fund accountability. In addition, SEAs and LEAs have asked the Department for numerous exceptions that are answered by the provisions of EDGAR. Further, Congress identified lack of accountability as one of the primary deficiencies under chapter 2 of the ECIA. S. Rep. 222, 101st Cong. 1st. Sess. 25 (1989). As a result, to provide additional guidance and to ensure that chapter 2 funds are spent only for authorized program purposes, the Secretary has made certain provisions of EDGAR applicable to programs under this part, in determining which provisions to apply, the Secretary carefully balanced the need for basic program accountability with the important principle of minimum Federal interference in State and local affairs.

The Secretary has not made part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments) applicable to programs under this part. Rather, § 286.2(b) of the final regulations requires States to have their own written fiscal and administrative requirements for expending and accounting for all funds received by SEAs and LEAs under this part. These requirements must meet three general criteria, set forth in §§ 286.2(b)(1)–(iii), that are designed to ensure the minimal standards necessary for proper management of chapter 2 funds. A State may adopt new requirements, or may use requirements applicable to the use of its own funds. In the alternative, a State may apply the provisions in part 80 and certain provisions in part 75 to satisfy this requirement. A State has complete discretion to choose among these alternatives. A State’s procedures do not have to be approved by the Department, but must be available for Federal inspection. In the event a State’s requirements are determined to be insufficient, the enforcement provisions in part 8 of the General Education Provisions Act (GEPA) apply, including the due process provisions in that part.

In addition, the Secretary has made applicable a limited number of provisions from part 76 (State-Administered Programs). For the most part, the applicable sections are statutorily required. For example, because chapter 2 contains a supplement-not-supplant requirement, § 76.563 applies, which requires an SEA or LEA to use a restricted indirect cost rate, computed in accordance with 34 CFR 75.564–75.566. If the SEA or LEA charges indirect costs to chapter 2. Similarly, the recordkeeping requirements in § 76.730, to which several commenters objected as burdensome and duplicative of other fiscal requirements, are required by section 437(a) of GEPA, made applicable by provisions added to this part by section 1575 of chapter 2. Section 76.730, which specifies what records an SEA or LEA must keep, does not duplicate other chapter 2 requirements and is not unduly burdensome. A few other provisions are not required by statute but provide important rights to SEAs and LEAs that would not be available without the regulations. For example, §§ 76.703–76.704 apply, which permit SEA and LEA subgrantees, respectively, to begin to obligate chapter 2 funds on the date their applications are submitted in substantially approvable form. The Secretary had also made applicable selected definitions in part 77 (Definitions That Apply to Department Regulations), this due process procedures in part 78 (Education Appeal Board), the enforcement provisions in part 81 (General Education Provisions Act—Enforcement), and the debenture and suspension provisions in part 85 (Governmentwide Debarment and Suspension [Nonprocurement] and Governmentwide Requirements for Drug-Free Workplace [Grants]).
The Secretary believes that making selected provisions of EDGAR applicable to programs under this part will address the need for better guidance and accountability. Moreover, the Secretary does not believe this action will create additional burden for SEA's and LEAs. The referenced provisions of EDGAR apply to other state-administered education programs. The EDGAR provisions have been reviewed with respect to federalism issues and burden reduction, and unduly burdensome requirements have been revised.

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Changes: To ensure the least possible burden on States, the Secretary has removed the proposed requirement in § 298.12(b)(1) that the State adopt their fiscal and administrative requirements for part 2. Instead, States are only required to have the same requirements. Further, to avoid any misunderstanding, the Secretary has also struck § 298.12(b)(2) of the regulations. The Secretary emphasizes that the chapter 2 regulations are incorporated by reference in part 28 of the regulations. The Secretary notes that the chapter 2 regulations are incorporated by reference in part 28 of the regulations. The Secretary notes that the chapter 2 regulations are incorporated by reference in part 28 of the regulations.

Several conforming changes that are not inconsistent with the proposed regulations have been made. First, § 753.3 concerning the Department's general grant regulations has been excluded because regulations proposing to delete it from part 75 have not become final. Second, § 76.617 concerning compliance with the Coastal Zone Act has been deleted because regulations proposing to delete it from part 76 have not become final. Third, §§ 76.670-76.677 concerning procedures for implementing a Uniform Federal System for the Employment of a Contractor (a contractor's transaction under § 85 CFR 85.110(a)(1)(iii)), would have been subject to the debarment and suspension regulations. Such a debarment would not apply to the receipt of funds by the State or mandatory subgrantee. However, the debarment would prohibit the individual from acting as a principal for the State or subgrantee or from participating in any other covered transaction under the nonprocurement programs of the Federal Government.

As a result, if the Department discovered any activity by an administrator of this program that would constitute grounds for debarment, the debarring official for the Department would take action to debar the individual. Further, if a State continued to do business with the individual and paid for the individual's services with program funds, the State Board of Education meeting all the requirements could obviously serve as the committee. The commenters recommended that the definition of "educational personnel" in § 298.3(c) be expanded to include school social workers and school psychologists. The Secretary believes that this can be accomplished by including school social workers and school psychologists in §§ 298.12(a)(3) and 298.12(a)(4) and deleting the definition of the term as it currently appears in the regulations.

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commenter felt that specifically referencing a specific organization encourages limiting the advisory or public input process. The commenter recommended the elimination of the provision.

Discussion: The Secretary agrees that any existing organization that meets the requirements of section 1522(a)(2) of the Act may be the State Advisory Committee and that it is unnecessary to make specific reference to a State Board of Education.

Changes: The phrase “including a State Board of Education” has been deleted from § 298.6(b).

Comment: One commenter recommended that a private school representative knowledgeable about chapter 2 be a member of the State Advisory Committee.

Discussion: Section 298.4 references section 1522(a)(2) of the Act, which requires that the State Advisory Committee include individuals representative of private elementary and secondary school children.

Changes: None.

Section 298.9—LEA Applications

Comment: A number of commenters noted that there is no explicit requirement in § 298.6(c)(1) that the parents of children enrolled in private schools as well as private school personnel be included in the consultation process required by section 1533(a)(5) of the Act.

Discussion: Section 298.4 references section 1522(a)(2) of the Act, which requires that the State Advisory Committee include individuals representative of private elementary and secondary school children.

Changes: None.

Section 298.7—Allocation of Chapter 2 Funds to LEAs

Comment: Many commenters commented on § 298.7 of the proposed regulations concerning the allocation of Chapter 2 funds to LEAs. Specifically, commenters objected to § 298.7(b)(2)(ii), which requires an SEA to provide adjusted allocations only to LEAs that serve the greatest numbers or percentages of high-cost children. The commenters recommended that all LEAs be allowed to receive funds. The commenters suggested that the State Advisory Committee be given the authority to allocate chapter 2 funds according to the best interests of the State. Similarly, other commenters criticized the limitation of the categories of high-cost children because many children whose education imposes a higher than average cost per child would not be included. The commenters recommended that a State be allowed to include other factors than those listed in § 298.7(b)(2)(ii) in calculating its formula for distributing chapter 2 funds to LEAs.

Discussion: Section 1512(g) of the Act sets out the general rule for distributing chapter 2 funds to LEAs. It requires an SEA to adjust its distribution formula “to provide higher per pupil allocations to LEAs which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as” children living in areas with high concentrations of low-income families, children from low-income families, and children living in sparsely populated areas.

Changes: Section 298.6(c)(3) has been changed to include specifically school social workers and school psychologists.

This interpretation of Congress’ intent is supported, in part, by the legislative history of section 565(a) of chapter 2 of the ESEA, the predecessor of section 1512(a). Under the Department’s interpretation of section 565(a), an SEA could distribute “high-cost” funds to any LEA that had “high-cost” children. Dissatisfied with the Department’s interpretation, the conferees indicated in the conference report accompanying technical amendments to the ESEA that “[t]he intent of the conferees that section 565(a) of the ESEA be interpreted such that State chapter 2 distribution formulas provide adjusted allocations to LEAs with only the greatest numbers or percentages of high-cost children rather than allocations to LEAs with any number of percentage of such children.” H.R. Rep. 574, 89th Cong., 1st Sess. 15 (1965). Section 1512(b)(2)(A) requires this interpretation.

Despite a more restrictive statutory provision, the Secretary wishes to emphasize that States continue to have considerable flexibility in adjusting their formulas. A State may decide what percentage of chapter 2 funds is to be allocated on an adjusted basis. A State may also decide, within the statutory categories, how to define “high-cost” children and which categories to use.

Changes: None.

Section 298.12—Targeted Assistance Programs

Comment: A number of commenters recommended that the regulations clarify the language in section 1532(b) of the Act concerning the authority for SEAs and LEAs to enter into contracts and grants. The commenters expressed concern that section 1532(b) appears to limit their ability to enter into contracts with profit-making organizations and individuals, which would severely hamper a number of the activities they would otherwise conduct.

Discussion: Section 1532(b) of the Act states that “[i]t is the purpose of this part to...” states that “(i)n order to conduct the activities authorized by this part, each State or local educational agency may use funds reserved for this part to make grants to and to enter into contracts with local educational agencies, institutions of higher education, libraries, museums, and other public and private non-profit agencies, organizations, and institutions.” The conference report accompanying the Act indicates that the conference committee agreed to include this authority but specifically amended it to “limit[] private agencies to only those which are nonprofit.” H.R. Rep. 567, 100th Cong., 2d Sess. 349 (1988).

The Secretary cannot waive or amend the statutory provision. The Secretary, however, interprets this provision to apply only to grants or contracts to operate targeted assistance programs. It does not limit an SEA’s or LEA’s authority to contract with an individual or a for-profit corporation to purchase specific goods or services—for example, to purchase materials to provide specific services, to secure audit services, or to lease conference space—to assist the SEA or LEA in carrying out a targeted assistance program.

Changes: None.
Comment: A number of commenters requested that § 298.12(a)(2) use the language of the Act to describe the programs to acquire and use instructional materials. The commenters pointed out that §§ 298.12(a)(1), 298.12(a)(3), and 298.12(a)(4) used the language in section 1531(b). They contended that to edit § 298.12(a)(2) might limit the types of programs and SEA or LEA might conduct under this area of targeted assistance.

Discussion: In order to avoid any confusion concerning the programs authorized under section 1531(b) of the Act, the Secretary agrees that it is appropriate to use the exact language of the Act in all of the areas of targeted assistance listed in § 298.13.

Changes: Sections 298.12(a)(2), 298.12(a)(5) and 298.12(a)(6) are modified accordingly.

Comment: Several commenters addressed the provision in § 298.12(b) concerning purchasing equipment under chapter 2. One commenter recommended that only computer hardware be allowable.

One commenter felt that the Act implicitly authorizes expenditures for equipment and, therefore, § 298.12(b) is unnecessary. One commenter believed that the purchase of equipment under chapter 2 should be coordinated with other Federal assistance programs. One commenter requested that the types of equipment that are permissible be pointed out. One commenter recommended that administrative and management technology expenditures be allowed.

Discussion: Under section 577(1) of chapter 2 of the ECIA, an LEA was authorized to use chapter 2 funds to purchase "instructional equipment and materials suitable for use in providing education in academic subjects" so long as the equipment met those requirements, it did not need to be tied to any other chapter 2 activity. Unlike section 577(1) of chapter 2 of the ECIA, section 1531(b)(2) of the Act does not authorize the use of chapter 2 funds to purchase general instructional equipment as a program in and of itself—that is, the purchase of general instructional equipment is not a "program, per se. SEAs and LEAs may only make such equipment purchases with chapter 2 funds if the equipment is used as a part of a chapter 2 program to meet one of the areas of targeted assistance in section 1531(b). As a result, § 298.12(b) is necessary because it states the basic rule concerning purchasing instructional equipment. Moreover, because equipment must be part of a targeted assistance program, it is unlikely that expenditures for administrative and management technology would be allowed.

Changes: None.

Section 298.13—Use of Funds by SEAs

Comment: Several commenters noted that § 298.13(b)(3)(i) concerning a waiver of the requirement to expend 20 percent of the funds reserved for State use for effective schools programs substitutes an "SEA" for the word "State" in the Act. They contend that this could be detrimental to an SEA in applying for a waiver because the State as a whole may be spending more funds for effective schools programs than the SEA.

Discussion: Section 1521(b)(2)(B) of chapter 2 authorizes a State to request a waiver of the requirement to expend 20 percent of the chapter 2 funds reserved for the State's use for effective schools programs if the "State is spending from non-Federal sources an amount equal to twice as much" as the State is required to spend from chapter 2. The Secretary did not intend to restrict the funds that could be considered in granting a waiver request to only funds expended by the SEA.

Changes: Sections 298.13(b)(2)(B) of chapter 2 are modified accordingly.

Comment: Several commenters addressed the clarification of the time period in which the SEA could spend the 25 percent of its chapter 2 funds reserved for administering chapter 2. Specifically, the commenters requested that the time period for those expenditures coincide with the period for which the funds are available for use.

Discussion: Section 1521(b) prohibits an SEA from expending "more than 25 percent of funds available to the State in any fiscal year" for State administration of programs under this part. The Secretary interprets the phrase "in any fiscal year" to clarify the amount of funds on which the 25 percent limitation is calculated—that is, the funds reserved for the State's use from a given fiscal year's chapter 2 grant. An SEA may expend no more than 25 percent of that amount for State administration. In accordance with section 412(b) of GEPA, however, the SEA may expend those funds during the fiscal year for which they were appropriated or during the succeeding fiscal year.

Changes: None.

Section 298.15—Evaluations and Reports

Comment: A number of commenters suggested that § 298.23 be expanded to include examples of how activities and programs funded with non-Federal funds could be supplemented with chapter 2 funds without supplanting the non-Federal funds.

Discussion: Section 298.23 of the final regulations accurately states the supplement-not-supplant requirement in section 1571(b) of the Act. Application of this requirement is dependent upon the specific circumstances in an SEA or LEA and therefore makes the kind of generalizations needed for regulations difficult. The Secretary appreciates the need for additional guidance in this area, however, and will include examples of specific instances of supplanting in a revised nonregulatory guidance document.

Changes: None.
Part VI

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Investigation and Prosecution of Parental Abduction Cases; Notice
DEPARTMENT OF JUSTICE
Office of Juvenile Justice and Delinquency Prevention

Investigation and Prosecution of Parental Abduction Cases

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Program announcement.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to section 404(b)(2)(D), title IV of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended, announces a program to continue the development of a training program for prosecutors and related professionals on the "Investigation and Prosecution of Parental Abduction Cases".

This program will continue the work begun by the American Prosecutors Research Institute (APRI) under a fiscal year 1988 cooperative agreement. APRI has completed a review of state laws and case law and surveyed prosecutors throughout the country to locate those that are consistently involved in the prosecution of parental abduction cases.

APRI has developed a directory of prosecutors, has drafted products on state laws and case laws and has developed a detailed outline for a trial manual for prosecutors on the prosecution of parental abduction cases.

These products were reviewed by an advisory group of prosecutors in August of 1989. The work that is to be continued under this solicitation is the completion of the draft and final trial manual, development of a training manual, testing of the training in one site, and presentation of training to multi-disciplinary teams in three other communities.

In addition, the recipient of this award will establish a clearinghouse for information on the prosecution of parental abduction cases, provide technical assistance to local prosecutors and coordinate with the recipient of the award for the study funded by OJJDP that is examining the "Obstacles to Recovery and Return of Parentally Abducted Children" and other related projects listed in paragraph I.

The major products of this effort will be a trial manual, a training manual and any related technical assistance packages.

This is a dissemination effort with Stage I having been completed during the initial funding period. Stages II and III are to be completed under this funding period. Stage II requires completion of the trial manual and technical assistance package; and, Stage III requires the development of a draft training manual and the testing of the training in one community. In the last quarter of this funding period, the recipient will develop a plan for completing Stage IV the development of a final training manual, providing training to three additional sites, the development of a dissemination strategy and actual dissemination of the trial manual, training and technical assistance materials.

OJJDP invites public and private non-profit agencies to submit competitive applications to complete the work outlined in this Request for Proposals (RFP). All previous work products developed by APRI in the initial cooperative agreement will be made available to the applicants for this award.

Up to $80,000 has been allocated for the initial award under this RFP. One cooperative agreement will be awarded competitively, with an initial budget period of 12 months. This award will provide support to complete the development of the trial manual, development and testing of a draft training manual in one community, and the development of related technical assistance packages. A structured technical assistance process will also be developed. One 12 month non-competing, supplemental award to complete the training manual, train three additional sites, and develop a dissemination strategy will be considered.

DATES: The deadline for the receipt of applications is June 4, 1990.

FOR FURTHER INFORMATION CONTACT: Douglas C. Dodge, (202) 724-5014, Office of Juvenile Justice and Delinquency Prevention, Room 754, 633 Indiana Ave. NW., Washington, DC 20531.

SUPPLEMENTARY INFORMATION:
I. Introduction and Background
II. Program Goals
III. Program Strategy
IV. Dollar Amount and Duration
V. Eligibility Requirements
VI. Application Requirements
VII. Procedures and Criteria for Selection
VIII. Submission Requirements
IX. Civil Rights Compliance

I. Introduction and Background

Thousands of children each year are abducted or concealed by non-custodial parents or not returned to the proper custody of the legal parent. These cases present a unique set of problems for prosecutors and law enforcement agencies throughout the country. Child abduction usually occurs in the context of disputed custody proceedings or as a result of visitation disputes. While custody and visitation proceedings are civil in nature and usually handled by family or juvenile courts, child abduction is a crime handled by the criminal courts.

There are significant legal complexities in the prosecution of these cases involving state, Federal and international law. For example, parents may have competing custody orders from different states. There is also the delicate problem of handling the child, victim/witnesses so as to minimize additional trauma while obtaining the necessary credible testimony to sustain a case. Prosecutors must exhibit unique skills in preparing a child witness.

The decision to file a case is often complex; guidelines are needed for prosecutors and law enforcement personnel to consult in making this decision. It is also important for prosecutors to develop a specialized knowledge base about the law in this area and about successful trial tactics so that child-abducting, non-custodial parents are brought to justice.

Related Projects. OJJDP is currently supporting six other projects that are related to this parental abduction initiative. The recipient of this award will be required to coordinate with these projects:

1. "National Study of Law Enforcement Policies and Practices Regarding Missing Children and Homeless Youth." (Grant No. 86-MC-CX-K036) Conducted by the Research Triangle Institute (RTI) and the Urban Rural Systems Association Institute (URSA), this study is designed to improve the law enforcement response to missing children and homeless youth cases. The project's activities include a determination of the extent of the missing child and homeless youth problem as reported to law enforcement, the scope and variety of law enforcement policies and procedures that related to missing children, and the effect of current policies and procedures on recovery of missing children. In addition, model programs will be designed and disseminated to police and other juvenile justice agencies.

As part of this project, RTI/URSA surveyed 1,060 state and local law enforcement agencies in 1986 regarding the numbers and types of missing children cases during 1986 and departmental responses. During subsequent phases of this project, RTI/URSA also involved conducting interviews with law enforcement officials in selected sites and conducting case studies of law enforcement policies and procedures that related to missing children, and the effect of current policies and procedures on recovery of missing children. In addition, model programs will be designed and disseminated to police and other juvenile justice agencies.
II. Program Goals

Program Goals are:

A. To develop a comprehensive trial manual, a training manual and related technical assistance materials for training local prosecutors, law enforcement agencies, and social service agencies on the investigation and prosecution of parental abduction cases.

B. To provide this training on the investigation and prosecution of parental abduction cases to at least four communities over the two year project period.

III. Program Strategy

Prosecutors, law enforcement and social service agencies play critical roles in the return of children to their legal parent. Their efforts must be coordinated, both in the return process and under circumstances where a decision is made to prosecute the abducting parent. Every effort must be made to prepare these agencies to carry out their responsibilities in the most effective and sensitive manner. These are the particular areas in which this project is expected to make a significant contribution. It is designed to develop a comprehensive overview of the most recent State statutes and case law, and the most carefully thought out and tested trial strategies. It is also designed to train appropriate personnel in this up-to-date information.

APRI began this effort under a cooperative agreement. APRI has surveyed the State statutes, case law and relevant literature and has developed a director of prosecutors who indicated that they have been consistently involved in the prosecution of parental abduction cases. In addition, APRI has developed an outline of a trial manual which has been reviewed by an advisory group. Several of the advisory group members have agreed to write chapters of the trial manual. This completes the work of Stage I.

This effort is now being subjected to competition because of the new requirements for competition in title IV of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. This solicitation calls for the completion of Stages II and III.

Under Stage II the recipient of this cooperative agreement will complete the trial manual and develop a draft training manual and related technical assistance materials. The recipient will develop a structured technical assistance process and further develop the clearinghouse capacity. The recipient will also coordinate with those organizations conducting related OJJDP programs listed in paragraph I.

Upon completion and approval of the trial manual by OJJDP, the recipient will begin Stage III, which initially involves developing a draft training manual and testing it in one site. The first training session will serve as a test site and provide a basis on which modifications to the training will be made. In the last quarter of this funding year, the recipient will develop a plan for completing the training manual and providing training in at least three additional communities. The recipient will also develop a strategy for disseminating the training manual, the training manual and related materials on a broader scale.

The Activities for Stages II and III are as follows:

Stage II

1. Revise the revised outline of the trial manual and all advisory committee comments.
2. Develop a plan for development of the trial manual.
3. Develop a draft trial manual.
4. Submit the draft trial manual for review by the advisory committee and OJJDP.
5. Review and finalize the trial manual.
Stage III

1. Develop a plan for producing the training curriculum.
2. Develop a draft training curriculum.
3. Submit the draft training curriculum to the advisory committee and OJJDP for review and comment.
4. Select a site for testing the training.
5. Test the training.
6. Revise materials and the training process as appropriate.

The products for Stage II and III are as follows:

Stage II

1. A plan for developing the Trial Manual.

Stage III

1. A plan for developing the training curriculum.
2. A draft training curriculum.

Stage IV, which will be implemented if future funding is available, will involve the revision and completion of the training manual and provision of training for three additional sites. In addition, the recipient of this award will develop a dissemination strategy and disseminate the manuals and related materials. Applicants should discuss how they will accomplish these tasks and provide a budget for conducting Stage IV.

IV. Dollar Amount and Duration

Up to $80,000 has been allocated for this award. One grant will be awarded competitively, with an initial budget period of twelve months. This award will cover the completion of Stages II and III of this effort. A noncompetitive continuation award for one year will be considered to conduct Stage IV.

A noncompetitive continuation award for the additional budget period may be withheld for justifiable reasons. These include: (1) The results of Stages II and III do not justify further program activity; (2) the recipient is delinquent in submitting required reports; (3) adequate grantor agency funds are not available to support the project; (4) the recipient has failed to show satisfactory progress in achieving the objectives of the project or has otherwise failed to meet the terms and conditions of the award; (5) the recipient's management practices have failed to provide adequate stewardship of grantor agency funds; (6) outstanding audit exceptions have not been cleared; and (7) any other reason that would indicate that continued funding would not be in the best interest of the Government.

V. Eligibility Requirements

Applications are invited from public and private non-profit agencies and organizations. Applications will not be accepted from for profit agencies.

Applicants must demonstrate that they have prior experience in the design and development of trial manuals and related legal training materials; knowledge of issues associated with the legal custody of children and the prosecution of abducting parents; and legal research experience in the juvenile justice field.

Applicants must also demonstrate that they have the financial capability, fiscal integrity and financial responsibility, including, but not limited to, an acceptable accounting system and internal controls, and compliance with grant fiscal requirements. Applicants who fail to demonstrate that they have the capability to manage this program will be ineligible for funding consideration.

VI. Application Requirements

All applicants must submit a completed Application for Federal Assistance (Standard Form 424), including a program narrative, a detailed budget, and budget narrative. An application information package may be obtained by writing Douglas C. Dodge, Room 754, 633 Indiana Avenue NW., Washington, DC 20531. All applications must include the information outlined in this section of the solicitation (Section VI) in Part IV, Program Narrative of the application (SF-424). The program narrative of the application should not exceed 35 double-spaced pages in length.

In accordance with Executive Order 12549, 28 CFR 67.310, applicants must also provide a certification that they have not been debarred (voluntarily or involuntarily) from the receipt of Federal funds. Form 4626/2, which will be supplied with the application information package, must be submitted with the application.

Applications that include non­competitive contracts for the provision of specific services must include a sole source justification for any procurement in excess of $25,000.

The following information must be included in the application (SF-424) Part IV Program Narrative:

A. Organizational Capability—Applications must demonstrate that they are eligible to compete for this cooperative agreement on the basis of the eligibility criteria established in Section V of this solicitation. Applicants must concisely describe their organizational experience with respect to the eligibility criteria specified in Section V above. Applicants must demonstrate how their organizational experience and capabilities will enable them to achieve the goals and objectives of this initiative. Applicants are invited to append one example of prior work products of a similar nature to their application.

Applicants must demonstrate that their organization has or can establish fiscal controls and accounting procedures that assure Federal funds available under this agreement are disbursed and accounted for properly. Applicants who have not previously received Federal funds will be asked to submit a copy of the Office of Justice Programs (OJP) Accounting System and Financial Capability Questionnaire (OJP Form 72201). Copies of the application kit and must be prepared and submitted by such applicants along with the application. Other applicants may be requested to submit this form. All questions on this form are to be answered regardless of instructions. The CPA certification is required only of those applicants who have not previously received Federal funding.

B. Program Goals and Objectives—A succinct statement of your understanding of the goals and objectives of the program should be included. The application should also include a problem statement and a discussion of the potential contributions of this program to the field.

C. Program Strategy—Applicants should describe the proposed approach for achieving the goals and objectives of the program. A detailed discussion of how the activities and products of each of Stages II-IV of the program would be accomplished should be included.

D. Program Implementation Plan—Applicants should prepare a plan that outlines the major activities involved in implementing the trial and training manual development, describe how they will allocate available resources to implement the project, how the program will be coordinated with those OJJDP programs described in the Introduction and Background Section, and how the effort will be managed.

The plan must also include an organizational chart depicting the roles and describing the responsibilities of key organizational/functional components, and a list of key personnel responsible for managing and implementing Stages II-IV of this initiative. Applicants must present detailed position descriptions, qualifications, and selection criteria for each position. This documentation and
individual resumes may be submitted as appendices to the application.

E. Time-Task Plan—Applicants must develop a time-task plan for the 12-month project period, clearly identifying major milestones and products. This must include designation of organizational responsibility and a schedule for the completion of the activities and products identified in section III. Applicants should also indicate the anticipated cost schedule per month for the entire project period.

F. Products—Applicants must concisely describe the interim and final products of each stage of the program, and must address the adequacy of the final product for meeting the goals on objectives of this effort.

G. Program Budget—Applicants shall provide two budgets: the first for a 12-month period (the period of this award); and the second, for the second year (Stage IV). Each budget must be accompanied by a detailed justification for all costs, including the basis for computation of these costs. Applications containing contract(s) must include detailed budgets for each organization's expenses. The budget should include funds for a five-person Program Advisory Committee to meet at least one time during the 12-month budget period, and as appropriate during the subsequent phase.

VII. Procedures and Criteria for Selection

All applications will be evaluated and rated based on the extent to which they meet the following weighted criteria. In general, all applications received will be reviewed in terms of their responsiveness to the minimum program application requirements set forth in section III. Applications will be evaluated by a peer review panel according to the OJJDP Competition and Peer Review Policy, 28 CFR part 34, subpart B, published August 2, 1985, at 50 FR 31366-31367. The selection criteria and their point values (weights) are as follows:

(A) The problem to be addressed by the project is clearly stated. This criterion includes a concise, well justified statement of the problem. (5 Points)

(B) The goals and objectives of the proposed project are clearly defined. This criterion includes a succinct statement of the goals and objectives of the project as well as definitions of key terms. (10 Points)

(C) The project design is sound and contains program elements directly linked to the achievement of project objectives. This criterion includes: demonstrated understanding of the components of the trial manual; training manual and training needs of the field. (30 Points)

(D) The project management structure is adequate to the successful conduct of the project. This criterion includes—(a) Adequacy and appropriateness of the project management structure and the feasibility of the time-task plan (15 Points); and (b) the qualifications of staff identified to manage and implement the program, including staff to be hired through contracts, if any. Also included is the clarity and appropriateness of position descriptions, required qualifications and selection criteria relative to the specific functions set out in the Implementation Plan. (15 Points) (Total 30 Points)

(E) Organizational capability is demonstrated at a level sufficient to support the project successfully. This criterion includes the extent and quality of organizational experience in the development, delivery and coordination of legal training and technical assistance programs of similar nature that have been national in scope. (15 Points)

(F) Budgeted costs are reasonable, allowable, and cost effective for the activities proposed to be undertaken. This criterion includes completeness and appropriateness of the proposed costs in relation to the proposed strategy and tasks to be accomplished. (10 Points)

Applications will be evaluated by a peer review panel. The results of the peer review process will be a relative aggregate ranking of applications in the form of "Summary of Ratings." These will be based on numerical values assigned by individual peer reviewers. Peer review recommendations, in conjunction with the results of internal review and any necessary supplementary reviews, will assist the Administrator in considering competing applications and in selection of the application for funding. The final award decision will be made by the OJJDP Administrator.

VIII. Submission Requirements

All applicants responding to this solicitation are subject to the following requirements:

1. Organizations that plan to respond to this announcement are requested to submit a written notification of their intent to apply to OJJDP by April 20, 1990. Such notification should specify the name, address and telephone number of the organization; co-applicants, if any; and contact persons. It should be sent to Douglas C. Dodge, OJJDP, Room 784, 633 Indiana Ave, NW, Washington, DC 20531. This notification submission is optional and will be used to estimate the application review workload.

2. Upon request to OJJDP, the necessary forms for application will be provided, along with Department of Justice certification information.

3. Applicants must submit the original signed application (Standard Form 424) and three copies to OJJDP, including the certification that the organization has not been disbanded (Form 4662/2). Additionally applicants must provide a Certification Regarding Drug-Free Workplace Requirements which meets the requirements of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, title V, subtitle D). Form 4061/3, which will be supplied with the application information package, must be submitted with the application.

All applications must be received by mail or hand delivered to the OJJDP by 5:00 p.m. EDT before the deadline date as explained above. Those applications sent by mail should be addressed to Douglas C. Dodge, OJJDP, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, DC 20531. Hand delivered applications must be taken to the OJJDP, Room 784, 633 Indiana Avenue NW., Washington, DC, between the hours of 8 a.m. and 5 p.m. except Saturdays, Sundays or Federal holidays.

The OJJDP will notify applicants in writing of the receipt of their application. Subsequently, applicants will be notified by letter as to the decision made regarding whether or not their submission will be recommended for funding.

IX. Civil Rights Compliance

A. All recipients of OJJDP assistance including any contractors, must comply with the non-discrimination requirements of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended; title VI of the Civil Rights Act of 1964; section 504 of the Rehabilitation Act of 1973, as amended; title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; and the Department of Justice Non-Discrimination Regulations (28 CFR part 42, subparts C, D, E, and G).

B. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination, after a due process hearing, on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the
Office for Civil Rights (OCR) of the Office of Justice Programs.
Terrence S. Donahue,
Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.
[FR Doc. 90-9001 Filed 4-17-90; 8:45 am]
BILLING CODE 4400-10-M
# Reader Aids

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