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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 731]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to domestic markets during the period from August 19 through August 25, 1990. Consistent with program objectives, such action is needed to balance the supplies of fresh lemons with the demand for such lemons during the period specified. This action was recommended by the Lemon Administrative Committee (Committee), which is responsible for local administration of the lemon marketing order.

EFFECTIVE DATES: Regulation 731 (7 CFR part 910) is effective for the period from August 19 through August 25, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture (Department), Room 2524-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3861.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 910 (7 CFR part 910), as amended, regulating the handling of lemons grown in California and Arizona. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

This final rule has been reviewed by the Department in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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 action on small entities as well as larger ones.

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 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,000 lemon producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

The California-Arizona lemon industry is characterized by a large number of growers located over a wide area. The production area is divided into three districts which span California and Arizona. The Committee estimates District 1, central California, 1990-91 production at 6,495 cars compared to the 4,158 cars produced in 1989-90. In District 2, southern California, the crop is expected to be 24,700 cars compared to the 24,292 cars produced last year. In District 3, the California desert and Arizona, the Committee estimates a production of 9,639 cars compared to the 9,436 cars produced last year. The Committee's estimate of 1990-91 production is 40,834 cars (one car equals 1,000 cartons at 38 pounds net weight each), as compared with 37,048 cars during the 1989-90 season. On October 11, 1990, the National Agricultural Statistics Service will publish an estimate of the 1990-91 lemon crop.

The three basic outlets for California-Arizona lemons are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona lemons. The Committee estimates that about 44 percent of the 1990-91 crop of 40,834 cars may be utilized in fresh domestic channels (17,900 cars), compared with the 1989-90 total of 16,600 cars, about 45 percent of the total production of 37,048 cars in 1989-90. Fresh exports are projected at 21 percent of the total 1990-91 crop utilization compared with 21 percent in 1989-90. Processed and other uses would account for the residual 35 percent compared with 34 percent of the 1989-90 crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 910 are intended to provide benefits to growers and consumers. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of lemons in the market throughout the marketing season and to avoid unreasonable fluctuations in supplies and prices.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the lemon marketing order are required by the Committee from handlers of lemons. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

The Committee submitted its marketing policy for the 1990-91 season to the U.S. Department of Agriculture (Department) on June 19. The marketing policy discussed, among other things, the potential use of volume and size regulations for the ensuing season. The Committee considered the use of volume

regulation for the season. This marketing policy is available from the Committee or Ms. Rodriguez. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on August 14 in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by an 11 to 2 vote, that 310,000 cartons is the quantity of lemons deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations were compiled by the Committee' staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, the preceding week's shipments and shipments to date, crop conditions, weather and transportation conditions, and a reevaluation of the prior week's recommendation in view of the above.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its amended 1990–91 marketing policy. This recommended amount is the same as the estimated projections in the Committee's revised shipping schedule.

During the week ending on August 11, shipments of lemons to fresh domestic markets, including Canada, totaled 303,000 cartons compared with 299,000 cartons shipped during the week ending on August 12, 1989. Export shipments totaled 132,000 cartons compared with 170,000 cartons shipped during the week ending on August 12, 1989. Processing and other uses accounted for 260,000 cartons compared with 133,000 cartons shipped during the week ending on August 12, 1989.

Fresh domestic shipments to date for the 1990–91 season total 612,000 cartons compared with 605,000 cartons shipped by this time during the 1989–90 season. Export shipments total 276,000 cartons compared with 353,000 cartons shipped by this time during 1989–90. Processing and other use shipments total 539,000 cartons compared with 308,000 cartons shipped by this time during 1989–90.

For the week ending on August 11, regulated shipments of lemons to the fresh domestic market were 303,000 cartons on an adjusted allotment of 385,000 cartons which resulted in net undershipments of 82,000 cartons. Regulated shipments for the current week (August 12 through August 18) are estimated at 310,000 cartons on an adjusted allotment of 353,000 cartons. Thus, undershipments of 43,000 cartons could be carried over into the week ending on August 25.

The average f.o.b. shipping point price for the week ending on August 11 was $12.56 per carton based on a reported sales volume of 295,000 cartons compared with last week's average of $14.18 per carton on a reported sales volume of 316,000 cartons. The 1990–91 season average f.o.b. shipping point price to date is $14.03 per carton. The average f.o.b. shipping point price for the week ending on August 12, 1989, was $13.98 per carton; the season average f.o.b. shipping point price at this time during 1989–90 was $14.12 per carton.

The Department's Market News Service reported that, as of August 14, demand for lemons of all sizes and grades is moderate. The market is "steady" for all grades and sizes of lemons. At the meeting, one Committee member characterized the movement of large-sized fruit (165's and larger) as fairly good. This Committee member also commented on the quality of Florida fruit and fruit from the Bahamas. Another Committee member reported inventory build-up on small-sized fruit (200's and smaller). Two Committee members supported open movement. After discussion of volume regulation and open movement, the Committee recommended, by an 11 to 2 vote, volume regulation for the period from August 19 through August 25.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the California-Arizona 1990–91 season average fresh on-tree price is estimated at $9.54 per carton, 116 percent of the projected season average fresh on-tree parity equivalent price of $8.20 per carton. The California-Arizona 1989–90 season average fresh on-tree price is estimated at $8.53, 114 percent of the projected season average fresh on-tree parity equivalent price of $7.47 per carton.

Limiting the quantity of lemons that may be shipped during the period from August 19 through August 25, 1990, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of lemons to market.

Based on considerations of supply and market conditions, it is found that this action will tend to effectuate the declared policy of the Act.

Based on the above information, the Administrator of the AMS has determined that issuance of this rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until August 14, and this action needs to be effective for the regulatory week which begins on August 19. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 910 is amended as follows:

1. The authority citation for 7 CFR part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

2. Section 910.731 is added to read as follows: [*This section will not appear in the Code of Federal Regulations.*]

§ 910.731 Lemon Regulation 731.

The quantity of lemons grown in California and Arizona which may be handled during the period from August 19 through August 25, 1990, is established at 310,000 cartons.

Dated: August 15, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–19587 Filed 8–17–90; 3:33 pm]

BILLING CODE 3410–02–M

7 CFR Part 927

[Docket No. FV-90-181FR]

Expenses and Assessment Rate for Marketing Order Covering Winter Pears Grown in Oregon, Washington, and California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order 927 for the 1990–91 fiscal year established for that order. The action is needed for the Winter Pear Control Committee (committee) to incur operating expenses during the 1909–91 fiscal year and to collect funds during that year to pay those expenses. This will facilitate program operations. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: July 1, 1990 through June 30, 1991.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone 202–475–3862.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 927 (7 CFR part 927) regulating the handling of winter pears grown in Oregon, Washington, and California. 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 by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to the 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 rule 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.

Approximately 90 handlers of winter pears are subject to regulation under this marketing order each season. There are approximately 1,800 winter pear producers in Washington, Oregon, and California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the handlers and producers of winter pears may be classified as small entities.

The winter pear marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable pears handled from the beginning of such year. An annual budget of expenses is prepared by the committee and submitted to the Department for approval. The members of the committee are handlers and producers of winter pears. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing anticipated expenses by expected shipments of pears (in standard boxes or equivalents). Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committee will have funds to pay its expenses.

The committee met on June 1, 1990, and unanimously recommended 1990–91 fiscal year expenditures of $4,943,738 and an assessment rate of $0.315 per standard box, or equivalent, of assessable pears shipped under M.O. 927. In comparison, 1989–90 fiscal year budgeted expenditures were $4,501,022 and the assessment rate was $0.335.

Major expenditure items this year in comparison to 1989–90 budgeted expenditures (in parentheses) are $3,859,775 ($3,737,038) for paid advertising, $317,767 ($187,693) for contingencies to cover unanticipated expenses, and $350,861 ($211,870) for research designed to improve winter pear yields and quality. The committee has budgeted $145,000 for industry development, of which $100,000 will be held in reserve for use in the event of a consumer-related industry crisis. The balance of $45,000 will cover marketing and promotional services and other services to be provided by the Northwest Horticultural Council under a consultant agreement. The remaining expenses are primarily for program administration and are budgeted at about last year's amounts.

Assessment income for the 1990–91 fiscal year is expected to total $4,266,068 based on shipments of 13,543,072 packed boxes of pears. Other available funds, including $20,000 in prior year assessments, $36,000 in miscellaneous income, $94,500 in voluntary intrastate assessments, and a reserve of $527,170 carried into this fiscal year, will also be utilized to cover 1990–91 fiscal year expenditures. The committee's reserves are within authorized limits.

Notice of this action was published in the **Federal Register** on July 16, 1990 (55 FR 28917). The comment period ended July 26, 1990. No comments were received.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of the information and recommendations submitted by the committee, it is found that this final rule will tend to effectuate the declared policy of the Act.

This final rule should be expedited because the committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis. The 1990–91 fiscal period began July 1. Therefore, 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** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 927

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 927 is amended as follows:

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

PART 927—WINTER PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

1. The authority citation for 7 CFR part 927 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New § 927.230 is added to read as follows:

§ 927.230 Expenses and assessment rate.

Expenses of $4,943,738 by the Winter Pear Control Committee are authorized, and an assessment rate of $0.315 per standard box, or equivalent, of pears is established for the fiscal year ending June 30, 1991. Unexpended funds from the 1990–91 fiscal year may be carried over as a reserve.

Dated: August 14, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–19467 Filed 8–17–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 948

[Docket No. FV-90-184]

Irish Potatoes Grown in Colorado; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 948 for the 1990–91 fiscal period. Authorization of this budget permits the Colorado Potato Administrative Committee, San Luis Valley Office (Area 2) (committee) to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: September 1, 1990 through August 31, 1991.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC, 20090–6456, telephone 202–447–2431.

SUPPLEMENTARY INFORMATION: This rule is effective under Marketing Agreement No. 97 and Order No. 948, both as amended (17 CFR part 948), regulating the handling of Irish potatoes grown in Colorado. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to the 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 rule 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 the 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 30 handlers and approximately 285 producers of potatoes in Colorado Area 2. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of Colorado Area 2 potato producers and handlers may be classified as small entities.

The committee unanimously voted at its June 20, 1990, meeting to recommend its 1990–91 budget and assessment rate to the Secretary of Agriculture for consideration.

The committee, which is the agency responsible for local administration of the order, consists of producers and handlers of Colorado Area 2 potatoes. These producers and handlers are familiar with the committee's needs and with the costs of goods and services in their local area and are in a position to formulate an appropriate budget. The budget was formulated and discussed at a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate was derived by dividing anticipated expenses by expected shipments of fresh Colorado Area 2 potatoes. Because that rate will be applied to actual shipments, it must be established at a rate that will provide sufficient income to pay the committee's expenses. A budget and rate of assessment is usually acted upon before the season starts, and expenses are incurred on a continuous basis.

The budget for the 1990–91 fiscal year of $50,675 is $198 more than the previous year due to increases in the manager's salary, reserve, and major purchases. The increases are offset by decreases in office salaries, benefits, and office expenses. In Colorado, both a State and Federal marketing order operate simultaneously. The State order authorizes promotion, including paid advertising, which the Federal order does not. Administrative expenses that are shared are divided so that 50 percent is paid under the State and 50 percent under the Federal order. All promotion and advertising expenses are financed under the State order.

The 1990–91 assessment rate of $0.004 per hundredweight of potatoes is the same as last year. This rate, when applied to anticipated fresh market shipments of 12,000,000 hundredweight, will yield $48,000 in assessment revenue. An additional $2,675 from the committee's authorized reserve will result in total funds of $50,675 which are adequate to cover budgeted expenses. The projected reserve for the end of the 1990–91 fiscal period is $2,425 which may be carried over into the next fiscal year. This amount is within the maximum permitted by the order of two fiscal years' expenses.

While this action imposes some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the order. Therefore, the Administrator of the AMS has determined that this proposed action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material including that set forth in the proposal, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act. It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** in that this action should be expedited because the committee needs to have sufficient funds to pay its expenses. The 1990–91 fiscal period for the program begins on September 1, 1990, and the marketing order requires that the rate of assessment for the fiscal period apply to all assessable Colorado Area 2 potatoes handled during the fiscal period. In addition, handlers are aware of this action which was recommended by the committee at a public meeting.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 948 is hereby amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR part 948 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 948.205 is added to read as follows:

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

§ 948.205 Expenses and assessment rate.

Expenses of $50,675 by the Colorado Administrative Potato Committee, San Luis Valley Office (Area 2) are authorized, and an assessment rate of $0.004 per hundredweight of assessable potatoes is established for the fiscal period ending August 31, 1991. Unexpended funds may be carried over as a reserve.

Dated: August 14, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–19471 Filed 8–17–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 967

[FV–90–176FR]

Expenses and Assessment Rate for Celery Grown in Florida

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 967 for the 1990–91 fiscal year established under the celery marketing order. Funds to administer this program are derived from assessments on handlers. The celery marketing order requires that the assessment rate for a particular fiscal year shall apply to all assessable celery handled from the beginning of such year. An annual budget of expenses is prepared by the Florida Celery Committee (Committee) and submitted to the U.S. Department of Agriculture (Department) for approval.

EFFECTIVE DATES: August 20, 1990.

FOR FURTHER INFORMATION CONTACT: Sheila Young, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 475–5992.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 967 [7 CFR part 967], both as amended, regulating the handling of celery grown in Florida. The marketing agreement and order are 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 by the Department in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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 rule 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 seven handlers of celery grown in Florida who are subject to regulation under the celery marketing order and approximately 13 producers of celery in the production area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.2] as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of celery handlers and producers may be classified as small entities.

The celery marketing order requires that the assessment rate for a particular fiscal year shall apply to all assessable celery handled from the beginning of such year. An annual budget of expenses is prepared by the Committee and submitted to the Department for approval. The members of the Committee are handlers and producers of celery. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget.

The assessment rate recommended by the Committee is derived by dividing anticipated expenses by expected shipments of the commodity. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses. The recommended budget and rate of assessment are usually acted upon by the Committee before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Committee will have funds to pay its expenses.

The Committee met on June 12, 1990, and unanimously recommended 1990–91 fiscal year expenditures of $175,000 and an assessment rate of $0.02 per 60-pound crate of celery shipped. In comparison, 1989–90 fiscal year budgeted expenditures were $171,000, and the assessment rate was $0.02 per 60-pound crate.

Major expenditure categories in the 1990–91 budget include $75,000 for administration, $75,000 for promotion, merchandising, and public relations, $12,000 for travel, and $5,000 for research. Comparable expenditures for the 1989–90 season were $75,000, $75,000, $12,000, and $5,000, respectively. Assessment income for 1990–91 is estimated at $110,000, based on a crop of 5,500,000 crates of celery. An additional $5,000 is expected to be received from interest. The Committee may expend operational reserve funds of $60,000 to meet the anticipated deficit in assessment income. Further, any unexpended funds may be carried to the next marketing year as a reserve.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This action adds a new § 967.226 and is based on Committee recommendations and other information. A proposed rule was published in the July 17, 1990, issue of the **Federal Register** [55 FR 29025]. Comments on the proposed rule were invited from interested persons until July 27, 1990. No comments were received.

After consideration of the information and recommendation submitted by the Board and other available information,

it is found that this final rule will tend to effectuate the declared policy of the Act.

This rule should be expedited because the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis. In addition, handlers are aware of this action which was recommended by the Committee at public meetings. Therefore, it is found that good cause exists for not postponing the effective date of these actions until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Part 967

Celery, Florida, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 967 is amended as follows:

PART 967—CELERY GROWN IN FLORIDA

1. The authority citation for 7 CFR part 967 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. New section 967.226 is added to read as follows:

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

§ 967.226 Expenses and assessment rate.

Expenses of $175,000 by the Florida Celery Committee are authorized, and an assessment rate $0.02 per crate of celery is established for the 1990–91 fiscal year ending on July 31, 1991. Unexpended funds from the 1990–91 fiscal year may be carried over as a reserve.

Dated: August 14, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–19469 Filed 8–17–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 993

[FV–90–182FR]

Expenses and Assessment Rate for Dried Prunes Produced in California

AGENCY: Agricultural Marketing Service, Agriculture.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes an assessment rate under Marketing Order No. 993 for the 1990–91 crop year established under the marketing order for dried prunes produced in California. Funds to administer this program are derived from assessments on handlers. This action is needed in order for the marketing order committee to have sufficient funds to meet the expenses of operating the program. Expenses are incurred on a continuous basis.

EFFECTIVE DATES: August 1, 1990, through July 31, 1991.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 475–3923.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 993 [7 CFR part 993], regulating the handling of dried prunes produced in California. 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 rule has been reviewed by the U.S. Department of Agriculture in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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 rule 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 15 handlers of prunes produced in California subject to regulation under the California prune marketing order and approximately 1,200 producers in the production area. Small agricultural produceres have been defined by the Small Business Administration [13 CFR 121.2] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of prune handlers and producers may be classified as small entities.

The marketing order for California prunes requires that the assessment rate for a particular fiscal year shall apply to all assessable prunes handled from the beginning of such year. An annual budget of expenses is prepared by the Prune Marketing Committee (Committee) and submitted to the U.S. Department of Agriculture for approval. The members of the Committee are handlers and producers of regulated prunes. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local areas and are, therefore, in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee is derived by dividing anticipated expenses by expected shipments of assessable prunes. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses. The recommended budget and rate of assessment are acted upon by the Committee shortly before the season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the Committee will have funds to pay its expenses.

The Committee met on June 26, 1990, and unanimously recommended 1990–91 marketing order expenditures of $260,736 and an assessment rate of $1.68 per salable ton of prunes. In comparison, 1989–90 marketing year budgeted expenditures were $250,895 and the assessment rate was $1.39 per ton. Assessment income for 1990–91 is estimated at $260,736 based on a crop of 155,200 salable tons of prunes. Major expenditure categories include $123,000 for salaries and wages, $111,900 for administrative expenses, and $25,836 for contingencies. Any funds not expended by the Committee during the crop year could be used, pursuant to section 993.81(c), for a period of five months subsequent to that crop year. At the end of such period, the excess funds would be returned or credited to handlers.

While this final action imposes some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This action adds a new section 993.341 and is based on Committee recommendations and other available information. A proposed rule was published in the **Federal Register** on July 17, 1990 [55 FR 29028]. Comments on the proposed rule were invited from interested persons until July 27, 1990. No comments were received.

After consideration of the information and recommendations submitted by the Committee and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

This action should be expedited because the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous bases. In addition, handlers are aware of this action, which was recommended by the Committee at a public meeting. Therefore, 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** [5 U.S.C. 553].

List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 993 is amended as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 993.341 is added to read as follows:

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

§ 993.341 Expenses and assessment rate.

Expenses of $260,736 by the Prune Marketing Committee are authorized, and an assessment rate payable by each handler in accordance with section 993.81 is fixed at $1.68 per ton for salable dried prunes for the 1990–91 crop year ending July 31, 1991.

Dated: August 14, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–19470 Filed 8–17–90; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 323

RIN 3064-AB05

Appraisals

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: Title XI of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA")[1] requires the FDIC to adopt regulations regarding the performance and utilization of appraisals in connection with federally related transactions under its jurisdiction. Title XI and these implementing regulations are intended to protect federal financial and public policy interests in real estate-related financial transactions requiring the services of an appraiser. This regulation, and similar regulations adopted by the other financial institutions regulatory agencies [2] and the Resolution Trust Corporation "(RTC"), provide affected parties with added assurance that real estate appraisals used in connection with federally related transactions are performed in accordance with uniform standards by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision. Toward this end, the regulation identifies which transactions require an appraiser, sets forth minimum standards for performing appraisals, and distinguishes those appraisers requiring the services of a State certified appraiser from those requiring a State licensed appraiser.

DATES: *Effective Date:* The effective date of this regulation is September 19, 1990.

Compliance Dates: Appraisals performed in connection with federally related transactions are to comply with the standards of this regulation on its effective date, but § 323.3 (b) and (c) must be complied with by July 1, 1991 or such later date as may be established pursuant to section 1119 of FIRREA (12 U.S.C. 3348). Appraisals for real estate-related financial transactions entered into before the regulation's effective date do not have to comply with the standards of this regulation; moreover, sales of loans that were originated before such effective date will not require an appraisal to be performed in accordance with this regulation. A transaction will be deemed entered into and a loan will be deemed originated if there is a binding commitment to perform before the effective date of this regulation.

FOR FURTHER INFORMATION CONTACT: (For information on supervisory issues) Robert F. Miailovich, Assistant Director, (202) 898–6918, or James D. Leitner, Examination Specialist, Division of Supervision, (202) 898–6790; (for information on liquidation issues) N. Jack Taylor, Senior Liquidation Specialist, Division of Liquidation, (202) 898–7326; (for information on legal issues) Walter P. Doyle, Counsel, Legal Division (202) 898–3682; FDIC, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

A. Background

Title XI of FIRREA requires the FDIC to establish standards for performing appraisals in connection with federally related transactions within its jurisdiction. In addition, title XI requires the FDIC to identify those circumstances that require a State certified appraiser and those that require a State certified or licensed appraiser. In response to this legislative mandate, the FDIC has adopted this regulation which is designed to address problems perceived by Congress and the FDIC.

Section 1121 of FIRREA defines a "federally related transaction" as a real estate-related financial transaction which, *inter alia,* requires the services of an appraiser. The FDIC has required State certified or licensed appraisers to be used for all real estate-related financial transactions except those transactions in which: (i) A lien is placed on real property solely through an abundance of caution, (ii) the transaction value (as defined in the regulation) is less than or equal to $50,000, (iii) the transaction involves a lease that is not the economic equivalent of a purchase or sale, (iv) the renewal of an extension or credit under certain circumstances, and (v) the acquisition of interests in loans or mortgage-backed securities if the loans complied with this regulation when originated. The FDIC, acting pursuant to section 1112 of FIRREA, has identified which categories of federally related transactions will require a State certified appraiser and which will require a State licensed appraiser.

In addition, the FDIC has adopted standards, pursuant to section 1110 of FIRREA, for the performance of

[1] Public Law No. 101–73, 103 Stat. 183 (1989); 12 U.S.C. 3310, 3331–3351.

[2] The Board of Governors of the Federal Reserve System ("FRB"), the Office of the Comptroller of the Currency ("OCC") the Office of Thrift Supervision ("OTS"), and the National Credit Union Administration ("NCUA").

appraisals in connection with federally related transactions within its jurisdiction. As mandated by title XI, these standards require that all such appraisals be written and that they conform to the Uniform Standards of Professional Appraisal Practice ("USPAP") promulgated by the Appraisal Standards Board of the Appraisal Foundation.[3] Further, the FDIC has adopted additional standards set forth in this regulation.

This regulation is intended to supplement the FDIC's supervisory appraisal guidelines [4] currently in effect. These guidelines will remain in effect, subject to amendment.

The FDIC has adopted this regulation to improve the safety and soundness of all financial institutions covered by title XI within its jurisdiction. The soundness of real estate loans and investments made by financial institutions covered by title XI depends upon the adequacy of the underwriting or analysis used to support these transactions. A real estate appraisal is one of several essential components of the lending process. Accordingly, through the integration of existing guidance on real estate appraisals with the additional requirements imposed by title XI, this regulation is intended to provide the affected entities with a reasonable degree of assurance that real estate appraisals used in connection with federally related transactions will be reliable.

As indicated above, title XI mandates that these standards require compliance with generally accepted appraisal practices as evidenced by the USPAP. The FDIC is awaiting final revisions to relevant provisions of the USPAP which are being prepared by the Appraisal Standards Board. Upon receipt of these changes, the FDIC intends to solicit comments on the revised USPAP in order to collect the broadest possible comment regarding appraisal standards for federally related transactions, including those in the USPAP. Upon receipt of those comments, the FDIC thereafter may propose amendments to this regulation, should it be deemed appropriate.

B. Summary of Comments

On February 22, 1990 (55 FR 6266) the FDIC issued for comment proposed rules to implement title XI of FIRREA. The FDIC received 313 letters from individuals and organizations. The principal issues raised by the comments are discussed below. In addition, the section-by-section analysis in Section C addresses many of the concerns raised by the comments.

Section 323.1 Authority, Purpose, and Scope

Several commenters believed that title XI of FIRREA does not authorize the FDIC to promulgate certain provisions of the regulation including the authority to prohibit a regulated institution from selecting an appraiser solely on the basis of membership in an appraisal organization. The FDIC believes that this provision is consistent with both the letter and the spirit of title XI. Moreover, the FDIC believes that the safety and soundness of regulated institutions is advanced by this provision. To provide an additional basis for this and other requirements, the section has been amended to include a citation to the provisions that grant to the FDIC board enforcement and regulatory authority.

Section 323.2 Definitions

The FDIC received comments on the following definitions.

Appraisal. Commenters noted that the regulation did not distinguish between the process of developing an opinion of market value, that is an "appraisal", and the written document itself, which is the "appraisal report." The FDIC will retain the definition unchanged because it more closely follows the statutory language in title XI and is a term widely used by banks, government agencies and others.

Complex 1-to-4 family residential property appraisal. One-seventh of the comment letters expressed various opinions concerning the use of the term "complex". Some commenters stated that the proposed definition was vague and not sufficiently restrictive to properly identify all properties that were atypical. Other letters expressed the opposing view that the criteria were so broad that all residential real estate would have one or more of the stated factors with the result that almost all residential properties would have to be appraised by State certified appraisers. Others were concerned that the definition would not be workable because many atypical factors could not be identified until an appraisal is conducted.

In response to these comments, the FDIC has amended this definition. Under the final rule, an appraisal will be deemed to be complex if the property to be appraised, the form of ownership, or market conditions are atypical. The list of factors that might make an appraisal complex has been moved to the preamble to emphasize that this list is only illustrative. Moreover, the FDIC has adopted a presumption that appraisals of 1-to-4 family residential property will be noncomplex. Finally, appraisals of any type of property rendered in connection with any transaction having value less than $250,000 may be performed by a competent licensed appraiser, eliminating the need of determining complexity of the property.

Federally related transaction. Several commenters suggested that the definition be modified to exclude additional types of real estate-related financial transactions. The definition that is taken directly from the section 1121 of FIRREA has not been amended. However, § 323.3(a) was expanded, thereby excluding a wide range of affected transactions from the definition.

Market value. There were several letters recommending various changes to the definition of market value including the suggestion that the footnote in the preamble be inserted into the text of the regulation. The FDIC believes that the definition, which is widely used in connection with mortgage lending and by a number of governmental agencies, does not require amendment.

Real estate-related financial transaction. Comments requested that this definition be modified to specifically exclude certain transactions. The definition that is taken directly from the section 1121 of FIRREA has not been amended. However, § 323.3(a) was expanded, thereby excluding a wide range of affected transactions from the requirements of the regulation.

State certified appraiser. A commenter pointed out that certification criteria will be adopted by the Appraisal Qualifications Board of the Appraisal Foundation (not the Foundation itself). The FDIC has amended this definition accordingly.

Transaction value. Comments requested a clarification of the use of the term with respect to an interest in pooled loans, such as an investment in mortgage backed securities. The regulation was amended to provide that the definition applies to each loan in a pool, but not to the pool itself.

[3] The Appraisal Foundation was established by several professional appraisal organization as a not-for-profit corporation under the laws of Illinois in order to enhance the quality of professional appraisals.

[4] *See Guidelines for Real Estate Appraisal Policies and Review Procedures,* adopted by the various divisions of bank supervision at the FDIC, the OCC and the FRB.

Section 323.3 Appraisal not required: transactions requiring a State certified or licensed appraiser.

(a) *Appraisal not Required.*

De minimis. Two-thirds of all respondents requested that the *de minimis* level be increased, suggesting cut-offs from $20,000 to $250,000, with $100,000 being the amount most frequently mentioned. The comments indicated that the greatest dollar volume of loan losses center in development, construction, and other large speculative real estate loans, not in small credits. Commenters raised the argument that for small transactions increased costs to the regulated institutions and their customers would be substantially greater than the benefits of reduced loan losses. Comments stated that the financial impact of requiring the use of certified or licensed appraisers for real estate-related financial transactions is proportionately greater for transactions involving low dollar amounts, placing a greater burden on small farms and businesses, consumers financing the purchase of low income housing, and other borrowers with modest financial resources. In response to these comments, the FDIC has raised the *de minimis* amount to $50,000. The FDIC believes that the higher figure is appropriate in light of the protections afforded by the FDIC's Guidelines for Real Estate Appraisal Policies and Review Procedures and the absence of evidence that transactions below $50,000 have created systemic risk.

Some commenters expressed concern that a higher *de minimis* would exclude too many 1-to-4 family residences that had been a past problem. However, the FDIC believes that many of those problems arose in multi-loan situations that will be covered by the definitions of "transaction value" and "tract development".

Other comments proposed alternatives to the *de minimis* test, including exempting transactions if the ratio of the loan to the value of collateral was sufficiently small, setting a higher *de minimis* cut-off based on the strength of the institution in question, and exempting small town banks altogether. The FDIC considered the advantages of the alternatives proposed, but has concluded that each presents significant problems. For instance, an appraisal would be necessary in many cases before one could accurately determine the loan-to-value ratio. In addition, an exemption of small town institutions results in a question of "fairness" and appears to go beyond the intent of title XI. The FDIC believes that the increased *de minimis* amount will address many of the concerns expressed in the comments.

Abundance of caution. Comments suggested changes to the explanation of "abundance of caution" that would expand its scope. The FDIC believes there are very few transactions that would have exactly the same terms without the real estate collateral. The final rule maintains the "abundance of caution" provision as it appeared in the proposal.

Leases. Several comments suggested that an appraisal should not be required for many leases. The FDIC believes that there is very limited loss exposure in operating leases. Accordingly, the final regulation includes a provision that a lease that is not the economic equivalent to a purchase or sale of real estate does not require an appraisal.

Renewals. Comments requested that renewals of loans be exempt from the requirements of the regulation. The FDIC believes that there is little risk in renewing performing real estate loans to financially sound borrowers. Accordingly, the regulation does not require this type of loan to be reappraised when renewed.

Pooled loans. As noted in the discussion of the definition of "transaction value" above, the FDIC received requests for clarification on how the regulation applies to the purchase of mortgage-backed securities and other pooled loans. The FDIC believes that such purchases should not require additional appraisals on the underlying real estate collateral. Thus, the regulation exempts such transactions provided that the underlying loans in the pool or security are supported by appraisals conforming to this regulation when the loans were originated.

(b) Transactions Requiring a State Certified Appraiser

Several commenters suggested that State certified appraisers were being required for a broader range of transactions than was mandated by title XI while a few letters expressed the opposing view that the regulation should require greater use of these knowledgeable and experienced professionals. Regulated institutions in rural areas expressed concern that certified appraisers might not be available locally to perform appraisals and if available may not have experience in valuing rural and farm properties. Comments suggested that requiring the use a certified appraiser when the value of a federally related transaction exceeds 10 percent of an institution's Tier 1 capital places smaller banks at a competitive disadvantage since it would be required to obtain a certified appraisal for the same transaction which a larger institution could enter into using a licensed appraiser. Some comments requested that licensed appraisers be permitted to perform complex 1-to-4 family residential and commercial property appraisals below a certain value. As previously noted in the discussion of definitions, commenters suggested that complexity frequently could not be determined until the property is appraised.

The FDIC recognizes that there may be only a limited number of State certified appraisers and that size of loan and/or value of the collateral should be factors taken into consideration in the allocation of this scarce resource. In addition, § 323.6(b), the competency provision, disallows the use of a State licensed appraiser who is not capable of properly evaluating the real property. The FDIC also concurs with the statement that the 10% of Tier 1 capital requirement would adversely and unnecessarily affect smaller institutions.

In response to these comments, the final regulation permits licensed appraisers to perform appraisals for all federally related transactions with transactions values less than $250,000 including complex residential, commerical and agricultural properties. In addition, the final rule does not include the 10% Tier 1 capital provision and allows the regulated institution to initially presume that any appraisal of residential property is non-complex.

Section 323.4 Appraisal Standards

(a) Minimum Standards

(1) *Compliance with USPAP; departure provision.* Comments expressed concern that regulated institutions would be required to comply with the USPAP without having an opportunity to comment on the standards. Some suggested that the FDIC should develop its own standards, stating that the Appraisal Foundation did not represent the majority of the appraisal industry. However, title XI specifically requires the FDIC, at a minimum, to follow "generally accepted appraisal standards as evidenced by the appraisal standards promulgated by the Appraisal Standards Board of the Appraisal Foundation." Nevertheless, because the Appraisal Standards Board has amended the USPAP since the proposal was published, the FDIC intends to seek public comment on the revised USPAP when available, as noted above. The FDIC may amend the

regulation as a result of any comments received. Moreover, future amendments to the USPAP will not apply to federally related transactions within the jurisdiction of the FDIC until the public has been afforded an opportunity to comment.

Comments requested that the proposal be amended to permit the use of USPAP Departure Provision for certain transactions. For the reasons stated in the section-by-section analysis of this rule, the FDIC believes that the Departure Provision in the USPAP is inconsistent with the intent of title XI and therefore has not amended this part of the standard. This is not to say that the Departure Provision may not be used by institutions and appraisers in certain circumstances; it just may not be used in situations where this regulation requires an appraisal.

(5) *Sales history.* Comments suggested that the requirement to report sales histories should not always be required. For the reasons stated in the section-by-section analysis of this preamble, the FDIC believes that this standard is necessary to ensure that accurate appraisals are prepared and therefore has retained this standard in the final rule.

(6) *Revenues, expenses and vacancies.* A comment on this standard suggested that it should also require an appraiser to analyze and report current expenses for income-producing property. The standard has been changed to incorporate that suggestion. In addition, the term "rents" has been changed to "revenues" to clarify that income may be generated from sources other than merely rents.

(9) *Deductions and discounts.* Commenters asked for clarification on how to apply this standard to construction lending. The section-by-section analysis of this preamble has been expanded to clarify the application of this standard.

(12) *Legal description.* Comments sought clarification on what type of legal description was required by the standard. The preamble has been amended to specifically state that the description contained in a deed is satisfactory.

(13) *Personal property, fixtures, and intangible items.* Comments requested that an appraiser not be required to value personal property that is located on the real estate. The FDIC believes that inclusion or exclusion of personal property can have a significant impact on the value of real estate and therefore its effect should be disclosed in the appraisal. Accordingly this standard has not been amended.

(14) *Use of recognized appraisal approaches.* Comments stated that it is unnecessary to use all three recognized approaches for every appraisal. While it is recognized that all appraisal approaches are not always possible or appropriate, the FDIC believes that the absence of an approach should be adequately explained to determine the adequacy of the appraisal and therefore has retained this standard unchanged.

Section 323.5 Appraiser Independence

There were various comments concerning appraiser independence. Some comments call for greater separation of in-house appraisers from loan offices while others asserted separation was impossible in small banks. Two commenters stated the financial institution could incur lender liability if it chose the appraiser and the borrower could later prove it suffered losses due to the choice. One suggestion was that the bank be allowed to provide a customer with a list of preapproved appraisers and let the borrower select the appraiser. Finally, comments requested that an appraisal performed for one regulated institution be able to be used by another institution. The FDIC believes that the current provision puts regulated institutions on notice of what is required and gives them the flexibility to develop structures and procedures to ensure that appraisers are independent and not subjected to improper influences. However, the FDIC agrees that a borrower who has contacted several banks about obtaining a loan should not have to pay for different appraisals prepared at the request of the various lending institutions. Accordingly, the regulation was amended to permit an appraisal to be used by more than one regulated institution under certain circumstances.

Section 323.6 Professional Association Membership; Competency

Membership in appraisal organizations. As noted above under the authority, purpose and scope section, comments questioned whether title XI empowered the financial institution regulatory agencies to preclude hiring an appraiser based solely on membership or lack of membership in an appraisal organization. The FDIC believes that Congressional intent of prohibiting discrimination is shown in section 1122(c) of FIRREA. Moreover, the FDIC believes that the safety and soundness of the regulated institution is best protected by requiring it to look beyond the particular affiliation of an appraiser to his or her education and experience when determining competency. Accordingly, this provision has not been amended.

C. Section-by-Section Analysis

Section 323.1 Authority, Purpose, and Scope

This section identifies title XI of FIRREA and other as the authority under which this regulation is promulgated. Further, it states who must comply with the regulation, including the FDIC and institutions regulated by the FDIC ("regulated institutions").

Section 323.2 Definitions

Except where noted below, the definitions set forth in title XI shall apply to the terms used in this regulation.

—*Appraisal.* This definition currently is used by nineteen federal agencies.[5] The FDIC believes that this widespread use and acceptance will produce consistent appraisals.

—*Complex 1-to-4 family residential property appraisal.* Section 1113 of FIRREA allows the use of a State licensed appraiser for, among other federally related transactions, 1-to-4 family residential property appraisals, "unless the size and complexity requires a State certified appraiser." The FDIC deems a "complex 1-to-4 family residential property appraisal" to be one in which the property to be appraised, form of ownership, or market conditions are atypical. Examples of atypical factors may include age of improvements, architectural style, size of improvements, size of lot, neighborhood land use, potential environmental hazard liability, leasehold interests, or other unusual factors. This list is illustrative only.

—*Market value.* This definition is commonly used in connection with mortgage lending by a number of government agencies and others. The definition contemplates the consummation of a sale as of a specified date and the passing of title from seller to buyer under open and competitive market conditions requisite to a fair sale. It is designed to provide an accurate and reliable measure of the economic potential of property involved in federally related transactions. Moreover, the FDIC believes that widespread acceptance and use of this definition will provide consistency to appraisals.

In applying this definition of market value, adjustments to the comparables

[5] *See* 49 CFR Part 24, "Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs.

must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs that are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party financial institution that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar-for-dollar cost of the financing or concession, but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgement.[6]

—*Real estate-related financial transactions.* This definition is the same as that set forth in section 1121(5) of FIRREA, except that "and" is replaced with "or" throughout so as to clarify the intent of Congress.

—*State certified appraiser.* This classification applies to appraisers who are recognized by the States as being more knowledgeable of and experienced in appraisals than are licensed appraisers. Section 1116 of FIRREA contemplates that each State or territory will adopt standards and procedures, consistent with the purposes of title XI, for obtaining the designation of "State certified appraiser." To be consistent with title XI, each State's standards and procedures must require its certified appraisers to meet, at a minimum, the criteria for certification issued by the Appraisal Qualifications Board of the Appraisal Foundation. Moreover, no State or territory may certify an appraiser under title XI unless that individual passes an examination, administered by the State or territory, that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraisal Foundation. The rule does not prevent a State from establishing additional certification criteria.

Under FIRREA, the FDIC is authorized to establish certification criteria in addition to those adopted by a given state. Additionally, the Appraisal Subcommittee of the Federal Financial Institutions Examination Council may issue a written finding that the certification criteria of a State or territory are inadequate for specific reasons. Thus, an individual may be a "State certified appraiser" only if (a) The individual complies with all state-imposed criteria and additional criteria, if any, imposed by the FDIC, and (b) the appraiser certifications and licenses of a state have not been rejected by the Appraisal Subcommittee.

—*State licensed appraiser.* Each state may elect to adopt licensing criteria that are less rigorous than certification criteria. However, licensing criteria must be adequate to protect federal financial and public policy interests. For example, simply "grandfathering" all existing appraisers generally would not be acceptable. Rather, the states and territories are to design criteria that will insure that licensed appraisers will have the experience and training sufficient to comply with this regulation.

The Appraisal Subcommittee of the FFIEC has indicated that in its statutory oversight of the state licensing process it expects the states to adopt meaningful qualification standards for licensed appraisers, including testing, experience and education requirements. Further, the Subcommittee has stated its position that the qualifications criteria for "residential real property appraiser" adopted by the Appraiser Qualifications Board of the Appraisal Foundation satisfy its expectations. The FDIC is a member of the Appraisal Subcommittee and fully supports its position.

As with State certified appraiser criteria, the FDIC is authorized to impose additional licensing requirements. Moreover, the Appraisal Subcommittee is charged with monitoring state appraiser certifying and licensing agencies, and may reject state certifications and licenses if a state's appraisal policies, practices, or procedures are found to be inconsistent with title XI or this regulation.

—*Tract development.* A tract development may be units in a subdivision, condominium project, timeshare project, or any similar project meant to be sold as individual units over a period of time. A project will be deemed to be a tract development if it is currently, or is intended to be, offered for sale as a single development.

—*Transaction value.* This definition is used to determine which transactions require a State certified appraiser and which require a State licensed appraiser. The FDIC will consider a series of related transactions as one transaction if it appears that a regulated institution is attempting to evade the requirements of title XI of FIRREA or this regulation.

Section 323.3 Appraisal Not Required: Transactions Requiring State Certified or Licensed Appraiser

(a) *Appraisal not required.* Section 1121(4) of FIRREA defines a federally related transaction as a real estate-related financial transaction that, among other things, requires the services of an appraiser. The FDIC recognizes that not all real estate-related financial transactions will require an appraiser. For instance, an appraisal would not be needed where a lien on real property has been taken as collateral solely through an abundance of caution. Collateral will be deemed to be taken in an abundance of caution where the terms as a consequence have not been made more favorable than they would have been in the absence of the lien. Accordingly, this exception is intended to have very limited application. In addition, the FDIC does not require an appraisal for a real estate-related financial transaction having a transaction value of $50,000 or less. A third instance where an appraisal is not required is a lease that is not the economic equivalent of a purchase or sale or real estate. An example of such a lease is a sublease by a bank of a portion of its premises to an unrelated third party. On the other hand, an assignment of a lease as collateral for the extension of credit would be an example of the economic equivalent of a purchase or sale. Fourth, the FDIC will not require an appraisal for the renewal of a loan, provided that the borrower has made all scheduled payments under the note, no new funds are advanced (other than as previously agreed), the borrower remains creditworthy and the property's collateral value has not obviously and materially deteriorated. Finally, an appraisal will not be required if a regulated institution purchases an interest in a loan secured by real property or mortgage-backed securities, if the underlying collateral was appraised in accordance with this regulation at the time the loan was originated. If the property was not adequately appraised, then the regulated institution must order an appraisal of each property that serves as collateral.

The FDIC has concluded that the *de minimis* amount raised to $50,000 continues to protect federal financial and policy interest while reducing the cost of compliance to the public and regulated institutions. The FDIC may change the *de minimis* amount by

[6] This paragraph regarding comparables is taken from the standard definition of "market value" used by the Federal Home Loan Mortgage Corporation ("FHLMC"), the Federal National Mortgage Association ("FNMA"), and OTS, among others. By including this paragraph in the preamble rather than the regulation, the FDIC does not intend to suggest any change in the interpretation or application of the definition of "market value" as this term currently is used.

amendment to the regulation should additional experience with the rule indicate a different level is appropriate. For transactions below the *de minimis* level, the FDIC does not intend to discourage any regulated institution from obtaining an appraisal in accordance with this regulation. In addition, any real estate-related financial transaction that does not require a State certified or licensed appraiser or use of all the standards prescribed herein should be supported by an appropriate estimate of value prepared in accordance with supervisory guidelines, general banking practice or other prudent standards, such as the FDIC Guidelines for Real Estate Appraisal Policies and Review Procedures. Pursuant to the Guidelines, an institution should obtain an adequate evaluation of real estate collateral by a competent person (who need not be a certified or licensed appraiser) before entering into any real estate-related financial transaction below the *de minimis* level.

(b) *Transactions requiring State certified appraiser.* Title XI requires a State certified appraiser to be used if the size of the transaction and the complexity of the appraisal warrants the expertise of the State certified appraiser. The regulation requires a State certified appraiser to be used in three instances. First, all appraisals in connection with federally related transactions having a transaction value of $1,000,000 or more require a State certified appraiser, regardless of complexity. Second, all federally related transactions having a transaction value equal to or greater than $250,000, except those involving appraisals of 1-to-4 family residential properties, require a State certified appraiser. Third, 1-to-4 family residential property appraisals require a State certified appraiser if the transaction value is $250,000 or more and the appraisal will be complex.

Before hiring an appraiser, the institution should assess the project to determine the qualifications that an appraiser will need to complete the appraisal assignment and whether the transaction, due to its complexity, would require a certified appraiser. A regulated institution may presume that appraisals of 1-to-4 family residential property are not complex, unless the institution has readily available information that suggests that a given appraisal will be complex. Such information may be provided, for instance, on a loan application. If the institution or assigned appraiser discovers during the assignment that the transaction is atypical or beyond the appraiser's expertise, the appraiser is required to disclose this situation to the institution and take the necessary action to remedy the deficiency. A certified appraiser could then be employed or the licensed appraiser could complete the appraisal and have a certified appraiser review and co-sign the appraisal report.

(c) *Transactions requiring either a State certified or licensed appraiser.* Any federally related transaction not otherwise exempt that does not require the services of a State certified appraiser must be performed by, at a minimum, a State licensed appraiser. State licensed appraisers may perform appraisals rendered in connection with any federally related transaction having transaction value up to, but not including, $250,000. In addition, State licensed appraisers may perform appraisals of 1-to-4 family residential property for transactions with a value up to $1,000,000 if the appraisal will not be complex.

The following table summarizes by value of transaction the professional designation of appraisers required.

SUMMARY OF APPRAISER REQUIREMENTS

Transaction value	Residential		Nonresidential
	Noncomplex	Complex	
$0 to $50,000	No requirement	No requirement	No requirement.
Over $50,000 to less than $250,000	Licensed or certified	Licensed or certified	Licensed or certified.
$250,000 to less than $1,000,000	Licensed or certified	Certified	Certified.
$1,000,000 or more	Certified	Certified	Certified.

Section 323.4 Appraisal Standards

(a) *Minimum standards.* Section 1110 of FIRREA instructs the FDIC to prescribe appropriate standards for the performance of appraisals made in connection with federally related transactions within its jurisdiction. Further, section 1110 mandates that the standards require, at a minimum, that appraisals be written and that they conform to generally accepted appraisal standards as evidenced by those issued by the Appraisal Standards Board of the Appraisal Foundation. The FDIC is empowered to require compliance with additional appraisal standards if it makes a written determination that such additional standards are required in order to properly carry out its statutory responsibilities. Section 323.4 of the regulation incorporates the minimum standards set forth in the statute, while listing additional criteria that shall apply to all appraisals performed as required under this regulation for federally related transactions.

In enacting title XI of FIRREA, Congress was responding to perceived problems in the appraisal industry. These problems were identified by the House Committee on Government Operations during a series of hearings,[7] and have been cited repeatedly in the legislative history of title XI.[8] The FDIC has adopted the following standards to further the legislative intent in addressing these problems. These standards are designed to contribute to safe and sound banking practiced by requiring reliable appraisal reports. Appraisals performed in connection with federally related transactions are to comply with these standards on the regulation's effective date September 19, 1990.

(1) *Compliance with USPAP; departure provision.* This standard incorporates the current standards in the USPAP and clarifies that the Departure Provision [9] in the USPAP is inapplicable to appraisals conducted in connection with federally related transactions within the FDIC's jurisdiction. The FDIC believes that the Departure Provision allows appraisal services to be performed which produce

[7] House Comm. on Government Operations, *Impact of Appraisal Problems on Real Estate Lending, Mortgage Insurance, and Investment in the Secondary Market*, H.R. 99–891, 99th Cong., 2d Sess. (1986).

[8] *See, e.g.*, 135 Cong. Rec. S4004 (daily ed. April 17, 1989) (Statement of Sen. Dodd); H.R. Rep. No. 100–1001, 100th Cong. 2d Sess. pt. 1, at 19, 21–26; 133 Cong. Rec. H10709 (daily ed. Nov. 20, 1987) (statement of Cong. Barnard); 132 Cong. Rec. H3452 (daily ed. June 6, 1986) (statement of Cong. Barnard).

[9] The Departure Provision enables appraisers to "perform an assignment that calls for something less than or different from the work that would otherwise be required by the [USPAP]."

something different from an "appraisal" as contemplated by title XI of FIRREA. For instance, in accordance with the Departure Provision and consistent with current USPAP requirements, a letter opinion might be produced that could be silent about trends of rents, vacancies, or overbuilding. Explanatory comments in the USPAP regarding the Departure Provision in the USPAP cite examples of when the departure provision might apply; [10] however, for purposes of the regulation, such services are not appraisals as this term is used in title XI. The FDIC believes that the Departure Provision in the USPAP allows for the omission of data that should be included in developing and reporting all appraisals rendered in connection with federally related transactions and, therefore, has determined that the Departure Provision shall not apply to such appraisals.

The FDIC solicits comment on any revisions to the USPAP that are relevant to federally related transactions. Changes to the USPAP made after the effective date of this regulation shall not be applicable to federally related transactions until there has been notice of the changes and the opportunity for interested persons to comment.

(2) *Disclosure of competency.* An appraiser is required to have the appropriate knowledge and experience that will be required to complete an assignment competently. If such knowledge and experience is initially lacking, the appraiser must disclose in the appraisal both this fact and the steps taken to comply with the Competency Provision in the USPAP.

(3) *Market value.* This standard requires an appraisal to document an appraiser's opinion of a property's "market value" as this term is defined. The definition of "market value" was developed by FNMA and FHLMC with the input of many professional appraisal organizations. Without such a standard, a lender might select a definition of value that allows the value of real property to be increased by favorable financing, going concern value, or special value to a specific user. This standard proposes to provide to interested parties the information necessary to determine the value of a property.

(4) *Written appraisals; forms.* This standard sets forth the legislative mandate that all appraisals be written. Moreover, it requires an appraisal to be sufficiently descriptive to enable a reviewer to readily ascertain the estimated value reported and the rationale for that estimate. The appraisal may be in a narrative format or on a form chosen by an appraiser, but the appraisal must comply with all other provisions of the regulation. A form not initially designed for use in connection with federally related transactions may be used provided that it is modified as necessary to comply with the requirements of title XI and this regulation. Regardless of the format selected, the appraisal must be able to be readily understood by a third party and must reflect the complexity of the property that is appraised. This will enable the reader of the appraisal to independently determine its adequacy based upon the characteristics of the collateral appraised.

(5) *Sales history.* This standard is designed to enable a reviewer to compare an appraiser's opinion of a property's market value with recent sales prices. In addition to giving the reviewer a basis by which to evaluate the accuracy of the subject property appraisal, it also will assist the reviewer in identifying recent trends in market prices. For instance, a sales history may identify a single sale or a series of sales at artificially inflated prices.

Sales histories are required for one year for 1-to-4 family residential property and for three years for all other types of property. A more demanding reporting standard for nonresidential property is appropriate because larger loan amounts are generally granted, and hence larger risk to the regulated institution incurred, when the loan security is not a 1-to-4 family dwelling.

(6) *Revenues, expenses and vacancies.* An appraisal should disclose current income produced by a property if the property will continue to be sued to generate income after a transaction is consummated. This information is essential for an accurate picture of the market value of an income-producing property. Appraisal values should be predicated upon current revenues, expenses and vacancies for property utilized in such a manner. That is, appraisals should be based upon income that can realistically be earned under current market and economic conditions (in light of rents being earned on comparable properties), rather than upon estimated or projected income that cannot be supported by current market conditions. If an appraiser reports a high current vacancy, the lender may have to impose special conditions on the loan.

(7) *Marketing period.* This standard requires an appraiser to employ a marketing period that is reasonable in light of a given property's characteristics and market conditions, and to disclose the assumptions used. An appraiser's opinion of market value will depend in part on the appraiser's estimate of how long a given piece of property will remain for sale. For instance, an appraisal using a long marketing period may produce a higher market value than would an appraisal using a shorter marketing period. This information will better enable the reader of the appraisal to assess its accuracy.

(8) *Trend analysis* An appraisal should inform the reader of any market trends, regardless of whether the trend reflects rising or declining values. Such trends might include, for example, increasing vacancy rates, greater use of rent concessions, or declining sales prices. Identification of negative trends is particularly important so that a regulated institution may avoid extending credit on the basis of insufficient collateral. Market trends may be indicated in market activity on the subject property, such as listings, options, or sales agreements; accordingly, such activity should be disclosed.

(9) *Deductions and discounts.* This standard is designed to avoid having appraisals prepared using unrealistic assumptions. For federally related transactions, an appraisal is to include an "as is" market value. This is the value of the property in its current physical condition and subject to the zoning in effect as of the current date of value. For properties where improvements are to be constructed or rehabilitated, the regulated institution may request a value based on stabilized occupancy or a value based on the sum of retail sales. However, the sum of retail sales for a proposed development is not the market value of the development. For proposed developments that involve the sale of individual houses, units, or lots, the appraiser must analyze and report appropriate deductions and discounts for holding costs, marketing costs and entrepreneurial profit. For proposed and rehabilitated rental developments, the appraiser must make appropriate deductions and discounts for items such as leasing commissions, rent losses and tenant improvements from the market value estimate based on stabilized occupancy.

(10) *Prohibited influences.* All appraisals are to be performed without pressure from someone who desires a specific value. Accordingly, every appraisal rendered in connection with a federally related transaction shall

[10] These examples include introducing into evidence during a judicial proceeding a one-page summary that incorporates by reference an appraiser's file or preparing a brief update of a previously prepared appraisal.

include a statement to the effect that employment of the appraiser was not conditioned upon the appraisal producing a specific value or a value within a given range. Similarly, future employment prospects should not be dependent upon an appraisal producing a specified value. Employment and compensation should not be based on whether a loan application is approved, as this, too, would exert pressure on an appraiser to render whatever appraisal is necessary for the loan to be approved.

(11) *Self-contained appraisals.* This standard requires an appraisal to contain all information necessary to enable a reader of an appraisal to understand the appraiser's opinion. The appraisal should not incorporate by reference a document that is not readily available to the reader. Studies prepared by a third party should be verified to the extent his or her assumptions or conclusions are used. In addition, the appraiser's acceptance or rejection of a third party study and its impact of value should be fully explained. The appraisal itself should enable the reader to understand the conclusion without having to refer to numerous other documents. Moreover, the conclusion must be reasonable in light of the information set forth in the appraisal. These requirements will force an appraiser to obtain adequate data before issuing an opinion of value.

(12) *Legal description.* A legal description of the property is to be included in an appraisal so as to avoid confusion that may arise from less precise identification. The description of real property contained in a deed will suffice. This requirement enables a reader to compare the legal description in the appraisal to the legal description in the loan documents. The legal description is to be provided in addition to, and not in lieu of, the description required in the USPAP.

(13) *Personal property, fixtures, and intangible items.* An appraisal is to include a separate assessment of personal property, fixtures, or intangible items that are attached to or located on real property if the personal property, fixture, or intangible item affects the market value of the real property. Furniture and fixtures should have separate valuations because their economic life is shorter than real property improvements and may require special lending or investment considerations. If the personal property, fixtures, or intangible item is not a part of the transaction, then this fact should be stated and the impact on market value should be disclosed. Favorable loan financing or any business interest or other intangible item should be valued separately within the appraisal. These requirements will help provide a reader with a more complete understanding of the market value of the real property as it will be at the time the transaction is entered into.

(14) *Use of recognized appraisal approaches.* At the request of clients, some appraisers have not prepared cost estimates of value, estimates of value based on the capitalization of income, or value estimates based on direct sales comparisons. This standard requires an appraiser to address each of these recognized approaches to market value and explain how each approach was used. However, if one or more approaches is not used, an appraiser is to explain the elimination of any approach. This requirement is intended to produce appraisals made only after the three major approaches to market value have been considered and reconciled, thereby improving the accuracy of the appraisal. Disclosure of the fact that an approach was not used will assist the reader in evaluating the adequacy of the appraisal.

(b) *Unavailability of information.* The FDIC realizes that some information required by the USPAP or this regulation to be in an appraisal may, on occasion, be unavailable. For example, historic rents will not exist for a building under construction at the time of appraisal. However, an appraisal should inform the reader of any material information that is unavailable and why such information could not be obtained, so as to assist the reader in reviewing the appraisal.

(c) *Additional standards.* The standards required by this regulation are the minimum standards to be met by every appraisal required under this regulation in connection with a federally related transaction. However, the FDIC and regulated institutions may employ additional standards if circumstances so warrant.

Section 323.5—Appraiser Independence

An appraiser's goal should be to produce an objective opinion about the market value of a property. This objectivity may be compromised if the appraiser is involved in the transaction, such as deciding whether to extend credit to be secured by such property. Similarly, a direct or indirect interest in the property appraised may undermine the accuracy of the appraisal. A direct interest would arise, for example, by owning all or part of property being appraised. An indirect interest would arise if, for example, by owning all or part of property being appraised. An indirect interest would arise if, for example, an appraiser owns property adjacent to the parcel being appraised. This indirect interest would extend to any property whose value is likely to be affected by an appraisal, if the appraisal is the proximate cause for the effect. Moreover, the interest may be nonpecuniary, such as a desire to help an associate obtain a loan.

To further the goal of appraiser independence, the FDIC requires that fee appraisers (that is, appraisers not permanently employed by a given regulated institution) be hired by a regulated institution or its agent rather than the borrower. An appraisal performed for one regulated institution may be used by another if the latter institution has adequately reviewed the appraisal, documented such review, and found the appraisal to have complied with this regulation. In order to avoid potential conflicts of interest, staff appraisers (appraisers that are permanently employed by a regulated institution) should not be supervised, controlled, or influenced by loan underwriters, loan officers, or collection officers.

The FDIC recognizes that in certain cases it may be necessary for loan officers and directors to perform appraisals. Such cases would depend on an institution's particular circumstances; an example would be a small rural bank where the only qualified individual to perform appraisals is a loan officer, and separating this person from the loan and collection departments is impossible. In such situation, the FDIC recommends that this individual perform appraisal work on loans in which he or she is not otherwise involved. In cases where loan officers or directors perform appraisals, regulated institutions are expected to ensure that the appraisers are qualified and that appraisal reports are adequate.[11] Directors and officers should abstain from any vote and/or approval involving assets on which they had performed an appraisal. In all, sufficient safeguards should be in place to permit appraisers to exercise independent judgment, thereby ensuring the validity of the appraisal process.

Section 323.6—Professional Association Membership; Competency

(a) *Membership in appraisal organizations.* The legislative history of title XI evidences an intent to prohibit discrimination against appraisers solely by virtue of membership or lack of

[11] It should be noted that directors and officers who perform appraisals in connection with federally related transactions must be licensed or certified, as appropriate.

membership in a particular appraisal organization[12] Accordingly, this regulation prohibits any entity covered by title XI from basing decisions regarding the employment of appraisers solely on membership or lack of membership in an appraisal organization. An institution should review the qualifications of appraisers rather than the qualifications of appraisal organizations to insure that a qualified individual is being employed. Membership in an organization may be considered; however, it may not be the sole determining factor in accepting or rejecting an appraiser.

(b) *Competency.* The license or certification by itself does not prove the appraiser's competency. Not all appraisers are competent to perform every type of appraisal that will be needed in connection with federally related transactions. For instance, an appraiser who is experienced in appraising shopping centers may not possess sufficient expertise to appraise a golf course. A financial institution should look beyond an individual's title to determine if he or she has the experience and training needed to perform the appraisal. This provision is not intended to prohibit, in every circumstance, an individual from appraising a type of property with which he or she is not familiar. However, in such instances, an appraiser may perform the appraisal only in accordance with the Competency Provision in the USPAP. In addition, an individual who is not a State certified or licensed appraiser may assist in the preparation of an appraisal if he or she is directly supervised by a licensed or certified appraiser (as appropriate), and the appraisal is approved and signed by a certified or licensed appraiser.

Section 323.7—Enforcement

Section 1120 of FIRREA vests the FDIC with the authority to bring an action for civil money penalties against a regulated institution within its jurisdiction. The regulation makes clear that additional enforcement remedies available to the FDIC under the Federal Deposit Insurance Act or other statutes also apply. These can include civil money penalties and cease and desist orders, as well as orders of removal and prohibitions against institutions and institution-affiliated parties. FIRREA specifically provides that "institution-affiliated parties" includes, but is not limited to, appraisers.[13]

[12] *See, e.g.*, House Banking Committee Report at 484; *See also* H.R. Conf. Rep. No. 101–222, 101st Cong., 1st Sess., at 457 (1989).

[13] *See* FIRREA, sections 204(f)(6) and 901(b)(1).

Regulatory Flexibility Act Analysis

Title XI of FIRREA requires the FDIC to establish standards for performing appraisals in connection with federally related transactions within its jurisdiction. In addition, title XI requires the FDIC to distinguish those transactions that require State certified appraisers from those that require State certified or licensed appraisers. This regulation is in response to this legislative mandate.

After considering the comments received, the FDIC has made a number of significant changes to the initial proposal that should help to reduce costs, particularly for smaller institutions, and to focus the regulation on those transactions where appraisal standards are most important. The principal changes are as follows:

(a) The *de minimis* cutoff has been raised to $50,000, thus eliminating smaller loans from the requirements of this regulation and focusing the regulation on those large transactions where the exposure to loss is greater. Because many of these large transactions would normally involve an appraisal under current practices, the marginal cost of mandatory appraisals is likely to be relatively insignificant, at least after a period of adjustment to the new requirements.

(b) The revised regulation permits competent State licensed appraisers, rather than only State certified appraisers, to perform any type of appraisal in transactions involving amounts up to $250,000. This should help minimize the costs to institutions that concentrate on these smaller loans.

(c) The revised regulation also expands the number of instances when licensed appraisers may be used, by eliminating the additional criterion in the proposal that would have required a certified appraiser where the transaction value exceeded 10 percent of Tier 1 capital.

(d) The revised regulation also clarifies that most appraisals of 1-to-4 family residential property will be presumed to be non-complex, and therefore allows for greater use of State licensed appraisers.

(e) Finally, the revised regulation exempts from the requirements of this regulation certain additional types of transactions, including transactions resulting from a maturing extension of credit under certain circumstances, leases that are not the economic equivalent of a purchase, and purchases of pooled loans or interests in real property if conforming appraisals have been performed.

The FDIC anticipates that the regulation may have a tendency to increase costs, to some degree, for borrowers and regulated institutions, since FIRREA contains no exception for small institutions. The cost increase may stem from at least two aspects of the rule. First, since regulated institutions are required to use certified or licensed appraisers, the cost of an appraisal may rise somewhat. Some borrowers may resist the increased appraisal cost and decide not to take out a loan secured by real estate. Alternatively, some regulated institutions may elect to absorb all or a portion of any increased appraisal cost. Second, the regulation includes certain provisions that go beyond the FDIC's existing appraisal guidelines. Those provisions could add to appraisal costs.

On the other hand, the regulation should serve to decrease costs to regulated institutions of all sizes. Such regulated institutions will have better information about the value of the real estate involved in federally related transactions and can better ensure that each loan is collateralized adequately. As a result, the events of default should be reduced, with a corresponding reduction in loan losses. In addition, for those institutions that already have strong appraisal policies or procedures that exceed minimum supervisory standards, the marginal costs of the regulation should be limited. On balance, the FDIC believes that adoption of this regulation will not have a significant adverse economic impact on a substantial number of small business entities, in accordance with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act

The collection of information contained in § 323.4 of this final rule has been approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control number 3064–0103. The estimated average burden associated with the collection of information in this final rule is 0.25 hour per response, or a total of 24.75 hours per respondent annually. This estimate represents the hours that are in excess of what institutions should prudently already be expending.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Assistant Executive Secretary (Administration), Room F–400, Federal Deposit Insurance Corporation, Washington, DC 20429, and to the Office

of Management and Budget, Paperwork Reduction Project (3064–0103), Washington, DC 20503.

List of Subjects in 12 CFR Part 323

Banks, Banking, Mortgages, Real estate appraisal, Reporting and recordkeeping requirements, Savings associations.

For the reasons set out in the preamble, the FDIC hereby adds part 323 to subchapter B of chapter III of 12 CFR to read as follows:

PART 323—APPRAISALS

Authority: Sec. 1101–22, Pub. L. 101–73, 103 Stat. 183, 511–19 (12 U.S.C. 3331–51).

§ 323.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued under 12 U.S.C. 1818, 1819 ["Seventh" and "Tenth"] and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") (Pub. L. 101–73, 103 Stat. 183, 12 U.S.C. 3331 *et seq.* (1989)).

(b) *Purpose and scope.* (1) Title XI provides protection for federal financial and public policy interests in real estate related transactions by requiring real estate appraisals used in connection with federally related transactions to be performed in writing, in accordance with uniform standards, by appraisers whose competency has been demonstrated and whose professional conduct will be subject to effective supervision. This part implements the requirements of title XI and applies to all federally related transactions entered into by the FDIC or by institutions regulated by the FDIC ("regulated institutions").

(2) This part:

(i) Identifies which real estate-related financial transactions require the services of an appraiser;

(ii) Prescribes which categories of federally related transactions shall be appraised by a State certified appraiser and which by a State licensed appraiser; and

(iii) Prescribes minimum standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of the FDIC.

§ 323.2 Definitions.

(a) *Appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately described property as of a specific date(s), supported by the presentation and analysis of relevant market information.

(b) *Appraisal Foundation* means the Appraisal Foundation established on November 30, 1987, as a not-for-profit corporation under the laws of Illinois.

(c) *Appraisal Subcommittee* means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(d) *Complex 1-to-4 family residential property appraisal* means one in which the property to be appraised, the form of ownership, or market conditions are atypical.

(e) *Federally related transaction* means any real estate-related financial transactions entered into after the effective date hereof that:

(1) The FDIC or any regulated institution engages in or contracts for; and

(2) Requires the services of an appraiser.

(f) *Market value* means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

(1) Buyer and seller are typically motivated;

(2) Both parties are well informed or well advised, and acting in what they consider their own best interests;

(3) A reasonable time is allowed for exposure in the open market;

(4) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and

(5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(g) *Real estate-related financial transaction* means any transaction involving:

(1) The sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; or

(2) The refinancing of real property or interests in real property; or

(3) The use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

(h) *State certified appraiser* means any individual who has satisfied the requirements for certification in a State or territory whose criteria for certification as a real estate appraiser currently meet the minimum criteria for certification issued by the Appraiser Qualifications Board of the Appraisal Foundation. No individual shall be a State certified appraiser unless such individual has achieved a passing grade upon a suitable examination administered by a State or territory that is consistent with and equivalent to the Uniform State Certification Examination issued or endorsed by the Appraiser Qualifications Board. In addition, the Appraisal Subcommittee must not have issued a finding that the policies, practices, or procedures of a State or territory are inconsistent with title XI of FIRREA. The FDIC may, from time to time, impose additional qualification criteria for certified appraisers performing appraisals in connection with federally related transactions within its jurisdiction.

(i) *State licensed appraiser* means any individual who has satisfied the requirements for licensing in a State or territory where the licensing procedures comply with title XI of FIRREA and where the Appraisal Subcommittee has not issued a finding that the policies, practices, or procedures of the State or territory are inconsistent with title XI. The FDIC may, from time to time, impose additional qualification criteria for licensed appraisers performing appraisals in connection with federally related transactions within its jurisdiction.

(j) *Tract development* means a project of five units or more that is constructed or is to be constructed as a single development.

(k) *Transaction value* means:

(1) For loans or other extensions of credit, the amount of the loan or extension of credit;

(2) For sales, leases, purchases, and investments in or exchanges of real property, the market value of the real property interest involved; and

(3) For the pooling of loans or interests in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

§ 323.3 Appraisal not required; transactions requiring a State certified or licensed appraiser.

(a) *Appraisal not required.* While supervisory guidelines, general banking

practices or other prudent standards require an appropriate valuation of real property collateral, an appraisal performed in accordance with this part is not required for any real estate-related financial transaction in which:

(1) The transaction value is $50,000 or less;

(2) A lien on real property has been taken as collateral solely through an abundance of caution and where the terms of the transaction as a consequence have not been made more favorable than they would have been in the absence of a lien;

(3) A lease of real estate is entered into, unless the lease is the economic equivalent of a purchase or sale of the leased real estate;

(4) There is a subsequent transaction resulting from a maturing extension of credit, provided that:

(i) The borrower as performed satisfactorily according to the original terms;

(ii) No new monies have been advanced other than as previously agreed;

(iii) The credit standing of the borrower has not deteriorated; and

(iv) There has been no obvious and material deterioration in market conditions or physical aspects of the property which would threaten the institution's collateral protection; or

(5) A regulated institution purchases a loan or interest in a loan, pooled loans, or interests in real property, including mortgage-backed securities, provided that the appraisal prepared for each pooled loan or real property interest met the requirements of this part, if applicable.

(b) *Transactions requiring a State certified appraiser*—(1) *All transactions of $1,000,000 or more.* All federally related transactions having a transaction value of $1,000,000 or more shall require an appraisal prepared by a State certified appraiser.

(2) *Nonresidential transactions of $250,000 or more.* All federally related transactions having a transaction value of $250,000 or more, other than those involving appraisals of 1-to-4 family residential properties, shall require an appraisal prepared by a State certified appraiser.

(3) *Complex residential transactions of $250,000 or more.* All complex 1-to-4 family residential property appraisals rendered in connection with federally related transactions shall require a State certified appraiser if the transaction value is $250,000 or more. A regulated institution may presume that appraisals of 1-to-4 family residential properties are not complex, unless the institution has readily available information that a given appraisal will be complex. The regulated institution shall be responsible for making the final determination of whether the appraisal is complex. If during the course of the appraisal a licensed appraiser identifies factors that would result in the property, form of ownership, or market conditions being considered atypical, then either:

(i) The regulated institution may ask the licensed appraiser to complete the appraisal and have a certified appraiser approve and co-sign the appraisal; or

(ii) The institution may engage a certified appraiser to complete the appraisal.

(c) *Transactions requiring either a State certified or licensed appraiser.* All appraisals for federally related transactions not requiring the services of a State certified appraiser shall be prepared by either a State certified appraiser or a State licensed appraiser.

§ 323.4 Appraisal standards.

(a) *Minimum standards.* For federally related transactions, all appraisals shall, at a minimum:

(1) Conform to the Uniform Standards of Professional Appraisal Practice ("USPAP") adopted by the Appraisal Standards Board of the Appraisal Foundation, except that the Departure Provision of the USPAP shall not apply to federally related transactions;

(2) Disclose any steps taken that were necessary or appropriate to comply with the Competency Provision of the USPAP;

(3) Be based upon the definition of market value as set forth in § 323.2(f);

(4)(i) Be written and presented in a narrative format or on forms that satisfy all the requirements of this section;

(ii) Be sufficiently descriptive to enable the reader to ascertain the estimated market value and the rationale for the estimate; and

(iii) Provide detail and depth of analysis that reflect the complexity of the real estate appraised;

(5) Analyze and report in reasonable detail any prior sales of the property being appraised that occurred within the following time periods:

(i) For 1-to-4 family residential property, one year preceding the date when the appraisal was prepared; and

(ii) For all other property, three years preceding the date when the appraisal was prepared;

(6) Analyze and report data on current revenues, expenses, and vacancies for the property if it is and will continue to be income-producing;

(7) Analyze and report a reasonable marketing period for the subject property;

(8) Analyze and report on current market conditions and trends that will affect projected income or the absorption period, to the extent they affect the value of the subject property;

(9) Analyze and report appropriate deductions and discounts for any proposed construction, or any completed properties that are partially leased or leased at other than market rents as of the date of the appraisal, or any tract developments with unsold units;

(10) Include in the certification required by the USPAP an additional statement that the appraisal assignment was not based on a requested minimum valuation, a specific valuation, or the approval of a loan;

(11) Contain sufficient supporting documentation with all pertinent information reported so that the appraiser's logic, reasoning, judgment, and analysis in arriving at a conclusion indicate to the reader the reasonableness of the market value reported;

(12) Include a legal description of the real estate being appraised, in addition to the description required by the USPAP;

(13) Identify and separately value any personal property, fixtures, or intangible items that are not real property but are included in the appraisal, and discuss the impact of their inclusion or exclusion on the estimate of market value; and

(14) Follow a reasonable valuation method that addresses the direct sales comparison, income, and cost approaches to market value, reconciles those approaches, and explains the elimination of each approach not used.

(b) *Unavailability of information.* If information required or deemed pertinent to the completion of an appraisal is unavailable, that fact shall be disclosed and explained in the appraisal.

(c) *Additional standards.* Nothing contained herein shall prevent a regulated institution from requiring additional appraisal standards if deemed appropriate.

(Approved by the Office of Management and Budget under control number 3064–0103.)

§ 323.5 Appraiser independence.

(a) *Staff appraisers.* If an appraisal is prepared by a staff appraiser, that appraiser must be independent of the lending, investment, and collection functions and not involved, except as an appraiser, in the federally related transaction, and have no direct or indirect interest, financial or otherwise, in the property. If the only qualified persons available to perform an

appraisal are involved in the lending, investment, or collection functions of the regulated institution, the regulated institution shall take appropriate steps to ensure that the appraisers exercise independent judgment and that the appraisal is adequate. Such steps include, but are not limited to, prohibiting an individual from performing appraisals in connection with federally related transactions in which the appraiser is otherwise involved and prohibiting directors and officers from participating in any vote or approval involving assets on which they performed an appraisal.

(b) *Fee appraisers.* If an appraisal is prepared by a fee appraiser, the appraiser shall be engaged directly by the regulated institution or its agent and have no direct or indirect interest, financial or otherwise, in the property or transaction. A regulated institution may accept an appraisal that was prepared by an appraiser engaged directly by another institution subject to title XI of FIRREA, if the regulated institution that accepts the appraisal has:

(1) Established procedures for review of real estate appraisals;

(2) Reviewed the appraisal under the established review procedures, finding the appraisal acceptable; and

(3) Documented the review in writing.

§ 323.6 Professional association membership; competency.

(1) *Membership in appraisal organizations.* A State certified appraiser or a State licensed appraiser may not be excluded from consideration for an assignment for a federally related transaction solely by virtue of membership or lack of membership in any particular appraisal organization.

(b) *Competency.* All staff and fee appraisers performing appraisals in connection with federally related transactions must be State certified or licensed, as appropriate. However, a State certified or licensed appraiser may not be considered competent solely by virtue of being certified or licensed. Any determination of competency shall be based upon the individual's experience and educational background as they relate to the particular appraisal assignment for which he or she is being considered.

323.7 Enforcement.

Institutions and institution-affiliated parties, including staff appraisers and fee appraisers, may be subject to removal and/or prohibition orders, cease and desist orders, and the imposition of civil money penalties pursuant to the Federal Deposit Insurance Act, 12 U.S.C. 1811 *et seq.*, as amended, or other applicable law.

By order of the Board of Directors.

Dated at Washington, DC, this 24th day of July 1990.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 90–19539 Filed 8–17–90; 8:45 am]

BILLING CODE 6714–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loan Policy, Farm Homestead Protection

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: Public Law 100–233 (101 Stat. 1676) (1988 legislation) enacted on January 6, 1988, amends the Consolidated Farm and Rural Development Act (7 U.S.C. 2000) relating to homestead protection with respect to farm loans made by the Small Business Administration (SBA). This final regulation implements such amendment. It prescribes rules concerning the type of property covered by homestead protection, sets forth procedures which enable a farmer to occupy homestead property under lease from SBA, and provides general guidance on the manner in which SBA disposes of collateral acquired by it.

EFFECTIVE DATE: August 20, 1990.

FOR FURTHER INFORMATION CONTACT: Charles R. Hertzberg, Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Room 804–D, Washington, DC 20416, Telephone (202) 653–6574.

SUPPLEMENTARY INFORMATION: On February 21, 1990, SBA published a Notice of Proposed Rulemaking (55 FR 5398), proposing the rules now being published as final. The comment period closed April 23, 1990. Three respondents were generally supportive of the proposals and they made recommendations which SBA has adopted in this final rule. Such recommendations will be discussed in place.

The 1988 legislation made changes to the Consolidated Farm and Rural Development Act (7 U.S.C. 2000), relating to homestead protection with respect to farm loans made by SBA. This final rule promulgates changes to § 120.204–2(b) of SBA regulations (13 CFR 120.204–2(b)) to implement the 1988 legislation. That section prescribes rules concerning the type of property covered by homestead protection, sets forth procedures enabling a farmer to occupy homestead property under lease from SBA, and provides general guidance on the manner in which SBA disposes of collateral acquired by it.

SBA acquires farm homestead property (as well as other kinds of collateral) by foreclosure, voluntary conveyance, or a conveyance by a trustee in bankruptcy. Farm homestead property may be leased from SBA pursuant to the rules contained in § 120.204–2(b). One of the respondents suggested that SBA clarify what type of foreclosure is intended, so SBA, in the introductory portion of the regulation, refers specifically to both judicial and *in rem* foreclosures. An *in rem* foreclosure occurs when the municipality forecloses because of the nonpayment of taxes, and SBA buys the property at the tax sale for the amount of the taxes owed. The Agency had not intended to differentiate between the types of foreclosure, so referencing both precludes any misunderstanding. Within 30 days of its acquisition of homestead property securing an SBA farm loan, SBA will notify the borrower of the availability of the homestead protection rights in this regulation. With respect to homestead property which SBA holds in inventory on the date this final regulation becomes effective, SBA will make a good faith effort to notify the borrower of such rights within 60 days of such effective date.

Subsection (b)(1) contains definitions of some of the terms used in the regulation. "Farm loan" is not being changed. It continues to mean any loan made or guaranteed by SBA under provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921, *et seq.*), or any disaster loan made to an agricultural enterprise as defined in 13 CFR 123.17. "Homestead property" is changed to mean the principal residence and adjoining property possessed and occupied by a farm loan borrower. (Previously, the term included the residence and a reasonable amount of adjoining property.) "Adjoining property" means no more than ten acres of land that is used to maintain the family of the farm loan borrower, including no more than seven farm outbuildings that are useful to the occupants of the homestead property. "Useful" means of benefit to the residents in their use and enjoyment of the principal residence such as a barn, well-house, garage, or animal enclosure. The 1988 legislation increased the allowable acreage from five to ten acres for purposes of this definition. It also referred to a "reasonable" number of

farm outbuildings. In order to provide guidance to its field offices so that they operate in a consistent manner, SBA has determined that seven farm outbuildings constitute "reasonable" number for purposes of the statute.

Subsection (b)(2) prescribes the procedures which a farm loan borrower would have to follow in order to occupy homestead property under a lease from SBA. Under the prior regulation (old rule), the borrower had to apply for such occupancy during a three-year period ending on December 21, 1988. In this final regulation, the borrower must apply for occupancy within 90 days after SBA acquires the homestead property. With respect to farm homestead property held by SBA on January 6, 1988, the borrower must apply for occupancy within 90 days of the final effective date of this regulation. As stated in the old rule, application must be made at the appropriate local SBA office.

The old rule required the farm loan borrower to provide evidence of gross annual sales of at least $40,000 in at least two calendar years during a five-year period. Under this final regulation, the borrower has to provide evidence that the gross farm income has been reasonably commensurate, as determined by the Farmers Home Administration (FmHA) county supervisor or state agricultural extension service, with the size and location of borrower's farm and with local conditions (including natural and economic) in at least two calendar years during the preceding six years. The borrower has the obligation of obtaining the required documents for submission to SBA. Since SBA is not primarily an agricultural agency, it will rely on local independent agricultural experts to verify whether gross farm income has been "reasonably commensurate" in a given case.

The old rule required the borrower to have received 60 percent of gross income from farming or ranching during at least two years of a designated five-year period. Under the final regulation, the borrower and spouse must show that they have received from farming or ranching operations at least 60 percent of their gross income in at least two calendar years during any six-year period preceding the calendar year in which the lease application is made.

The old rule required the borrower to occupy the residence and engage in farming or ranching during a designated five-year period. This final regulation requires the borrower to have occupied the homestead property for the preceding six years, except for no more than 12 months (which need not be continuous) in which he or she was off the property due to circumstances beyond his or her control. Such circumstances would include illness, employment or conditions (such as fire) that made the principal residence uninhabitable. The 1988 legislation does not require that the 12-month period be continuous, but SBA has decided to expressly state that the period does not have to be continuous in order to accommodate events beyond the control of the borrower.

Under the old rule, the borrower had to have sufficient income to make rental payments and to maintain the property and to agree to all terms in the lease agreement and the regulations. Under this final regulation, the borrower is required to make reasonable rent payments to SBA and has to show sufficient income to make such payments and to maintain the property. Further, the regulation clarifies that SBA decides the reasonableness of the rent. Such reasonable rent is an amount substantially equivalent to rents charged for similar residential properties in the area in which the homestead is located. In addition, the borrower is liable to SBA for reasonable rent during the application process before the lease is executed. SBA requires this latter provision because SBA, from the time it acquires the property, has obligations and duties with respect thereto, and fairness demands that the borrower in possession pay a fair rental during the processing of the lease transaction. SBA has deleted the statement in the old rule that the borrower agrees to be bound by the lease terms and the regulations because that is understood by the terms of the contract and the regulations in any event.

SBA is not changing the provisions of the old rule which required the borrower seeking the lease to be personally liable for the farm loan and to personally occupy the residence during the term of the lease. SBA is not changing the portion of the old rule which provided that when more than one member of an entity (such as a corporation or a partnership) each possesses and occupies a separate homestead property, each may apply for homestead protection. The 1988 legislation does not preclude this approach and SBA is retaining it. SBA requires, under this final rule, that the borrower must have exhausted all remedies, as determined by SBA, for the extension or restructuring of the farm loan. This is the same as the old rule.

The old rule provided for appeal rights concerning the application for homestead protection and this final regulation continues the same appeal procedure in which the borrower can appeal to the appropriate SBA Regional Administrator. Further, the final rule does not allow the property to be leased or sold to third parties until the appeal is concluded. The 1988 legislation requires that SBA allow the borrower to retain possession and occupancy of the homestead property while SBA processes the lease application, and the final regulation authorizes the same right.

Both the old rule and this final regulation prescribe basically the same provisions which must be contained in the lease allowing the borrower to continue to occupy the homestead property. Thus, under the final regulation, the lease is limited to the homestead property. Sources of water, power lines, utility lines, sanitation facilities and/or access to the property can be located outside such property so long as appropriate rights or easements can be obtained. Under the final rule, no lease will be approved if upon exercise of any option to purchase, the remaining collateral in SBA's possession will not be provided with entry and egress to a public way. SBA will obtain a survey and legal description of the property, and the cost will be charged to the borrower's account.

With respect to appraisal, a respondent suggested that SBA clarify the time frame in which the appraisal could be made. SBA adopts this comment by stating in the final regulation that the appraisal can be made within six months before or after the date on which the borrower's application for homestead protection is received by SBA. Such value will be used to determine the lease payments payable to SBA. The borrower would select the appraiser from a list maintained by the FmHA county supervisor. One of the respondents suggested that SBA eliminate this requirement concerning such a list since the statute does not expressly require this. SBA is not adopting this suggestion since the Agency wants to be assured of the independence and quality of the appraisal. In addition, the Secretary of Agriculture utilizes such a list as a reference with respect to processing homestead protection for farm loans made by the Agriculture Department. The lease must be for a period not to exceed five years pursuant to the borrower's written request. (The old rule did not contain the requirement that the period be requested by the borrower in writing.) If the initial term of the lease is less than five years, any extension or renewal, when added to the initial term, could not exceed five years. Further,

every lease is required to contain an option to purchase. SBA will decide that the amount of the lease payments are substantially equivalent to rents charged for similar residential properties (and SBA will document this in its file). Lease payments which meet this test will be deemed by SBA to be a reasonable rent.

The final rule requires the borrower to remit lease payments to SBA according to the terms of the lease and such payments will be retained by the Government. (This is the same as the old rule.) Further, the final rule continues the old rule provision that the failure to make lease payments or to maintain the property constitutes cause for the termination of all of the lessee's rights to possession and occupancy of the homestead property. The final rule provides that when SBA effects such termination it will provide the lessee with a written notice of its intent to terminate within 60 days and the borrower will be given an opportunity to resolve the issue at an informal meeting at the SBA branch or district office. If such meeting is held and if SBA still decides to terminate the lessee's rights, the final regulation requires SBA to notify the lessee in writing and to comply with all applicable state and local laws governing eviction from residential property.

Under the old rule, any interference by the lessee with the SBA's efforts to lease or sell to others the remainder of such borrower's farm loan property which had been purchased by SBA constituted cause for the termination of all rights of the lessee to possession of the homestead property. The final rule retains the same provisions.

The final regulation provides that during or at the end of the lease period, the lessee has the right of first refusal to reacquire the homestead under terms no less favorable than those offered to any other purchaser. If such sale is on installment terms, the purchase agreement requires a down payment of 20 percent of the purchase price. SBA has determined that only a substantial down payment can satisfy SBA's concerns that the property not be reacquired by the Agency. A serious offer by the borrower recognizes the obligation of maintaining payments if a substantial down payment of 20 percent was part of the transaction.

When a farm loan borrower has a lease arrangement with SBA for the homestead property, he or she has an option to purchase the property from SBA. The price of such purchase is determined, under the final regulation, by an independent appraisal made after such lessee requests the right to exercise the option. Section 2000(e) (7 U.S.C. 2000(e)) of the 1988 legislation provides that when SBA contracts to sell the homestead property to the lessee, SBA cannot establish a higher price than the appraised value as determined within six months of the borrower's earlier application to SBA to lease the homestead property. However, Section 2000(c)(4)(B) of the 1988 legislation provides for a more current appraisal date when the Secretary of Agriculture is processing homestead protection for farm loans made by the Agriculture Department. The Secretary of Agriculture is authorized, in such case, to value the homestead property after the borrower/lessee exercises the option to purchase. These two provisions reflect an unwarranted distinction between the Secretrary of Agriculture and the SBA Administrator. Accordingly, in the final regulation the Agency has adopted the provision applicable to the Secretary of Agriculture in the same situation: that is, SBA will use an appraised value determined after the lessee exercises the option to purchase the homestead property.

SBA is promulgating two provisions required by the 1988 legislation which were not in the old rules. First, SBA is allowed to enter into contracts prior to its acquisition of the homestead property. The second provision relates to the applicability of state law in the event there is a conflict between these homestead provisions and state law. One of the respondents noted that the regulation should clarify that state law would prevail in a conflict situation only where state law actually applies to a case involving a borrower. The general rule is that Federal law applies where it supercedes state law by decision or by statute, but in some jurisdictions, Federal courts defer, as a matter of course, to state law in order to protect debtors. If state law were to apply in every farm homestead situation (as could be inferred by the language in the proposed rule), that could seriously impair SBA's ability to liquidate SBA collateral. Accordingly, SBA has adopted the suggestion so that only where state law applies to the borrower's situation, in the event of a conflict between these homestead provisions and state law relating to the right of the borrower to designate for separate sale or redeem part or all of the real property securing a loan foreclosed by the lender, in that event state law will prevail.

For purposes of the Regulatory Flexibility Act (5 U.S.C. 605(b)), SBA certifies that this final rule will not have a significant impact on a substantial number of small businesses. Further, SBA certifies that this final rule does not constitute a major rule for the purposes of Executive Order 12291, since the change is not likely to result in an annual effect on the economy of $100 million or more. Recent statistics support these certifications. In fiscal 1987, SBA made 163 section 7(a) farm loans for an aggregate amount of $30.4 million. In fiscal 1988, SBA made 133 section 7(a) farm loans totalling $27.5 million. In fiscal 1989, the Agency made 210 such loans aggregating $41.2 million. With respect to disaster farm loans, in fiscal 1987, SBA made 203 loans aggregating $9.7 million.

This final rule does not impose additional reporting or recordkeeping requirements which are subject to the Paperwork Reduction Act (44 U.S.C. chapter 35).

This final rule does not have federalism implications warranting the preparation of a Federal Assessment in accordance with Executive Order 12612.

List of subjects in 13 CFR Part 120

Loan programs/businesses; Small businesses.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6), SBA amends part 120, chapter I, title 13, code of Federal Regulations, as follows.

PART 120—BUSINESS LOAN POLICY

1. The authority citation for part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6) and 636 (a) and (h).

2. Section 120.204–2(b) is revised to read as follows:

§ 120.204–2 Foreclosure of collateral.

* * * * *

(b) *Homestead Protection for Farmers.* Residences and a reasonable amount of adjoining real property that are presently collateral purchased by the SBA (COLPUR) and which were acquired by SBA as a result of judicial or *in rem* foreclosure, a voluntary conveyance, or a conveyance to the Government by a trustee in bankruptcy and which are still occupied by the borrower of the farm loan may be leased by SBA to the borrower under the terms of this section. Within 30 days of the acquisition of homestead property securing an SBA farm loan, SBA shall notify the borrower from whom the property was acquired of the availability of homestead protection rights under this subsection. For property in inventory on the date this regulation is effective, SBA shall make a good faith effort to notify the borrower

of the availability of such homestead rights within 60 days after such date.

(1) *Definitions: Farm loan* means any loan made or guaranteed by the Administrator under the Small Business Act (15 U.S.C. 631, *et seq.*) for any of the purposes authorized for loans under subtitles A or B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq.*), including emergency loans, farm/ranch operating loans, farm/ranch ownership loans and soil and water loans; or any disaster loan made to an agriculture enterprise as defined in 13 CFR 123.17.

Homestead property means the principal residence and adjoining property possessed and occupied by a farm loan borrower.

Adjoining property means no more than 10 acres of land that is used to maintain the family of the farm loan borrower, including no more than seven farm outbuildings located on such acreage that are useful to the occupants of the homestead property.

Useful means of benefit to the residents in their use and enjoyment of the principal residence such as a well-house, barn, garage, or animal enclosure.

(2) *Eligibility.* In order to be an eligible applicant to occupy homestead property under a lease from SBA, a borrower of a farm loan made or guaranteed by the Administrator must meet all of the following requirements:

(i) Apply for such occupancy within 90 days after the homestead property is acquired by the Administrator. For property held by the Administrator on January 6, 1988, the borrower shall apply for occupancy within 90 days of the effective date of this regulation. Application shall be made to the SBA branch or district office which services such farm loan.

(ii) Provide evidence that gross farm income has been reasonably commensurate (as determined by the local Farmers Home Administration (FmHA) county supervisor or state agricultural extension service) with (A) the size and location of the borrower's farm, and (B) local agricultural conditions (including natural and economic conditions) in at least 2 calendar years during the 6-year period preceding the calendar year in which the application is made. Borrower shall have the obligation to obtain and submit to SBA the required documentation from the county supervisor or extension service.

(iii) Borrower and spouse must have received at least 60 percent of their gross annual income from farm or ranch operations in at least two calendar years during any six-year period preceding the calendar year in which the application is made.

(iv) During the 6 years preceding the calendar year in which the application is made, the borrower must have continuously occupied the homestead property, provided that the borrower could leave the homestead property due to circumstances beyond his or her control, for a period not to exceed 12 months (which need not be continuous) during such 6 years. Such circumstances include, but are not limited to, illness, employment or conditions that made the principal residence uninhabitable.

(v) During the period of occupancy of the homestead property, the borrower shall pay to SBA a reasonable rent as determined by SBA to be an amount substantially equivalent to rents charged for similar residential properties in the area in which the homestead property is located and the borrower must have sufficient income to make such rental payments and must maintain the property in good condition. The borrower is liable to SBA for reasonable rental payments during the application process before the lease is entered into between SBA and the borrower.

(vi) The applicant must be an individual who was personally liable for the farm loan. The farm loan could have been made to an individual or an entity, so long as the applicant was personally liable for the debt.

(vii) The applicant must personally occupy the residence as his/her personal residence during the term of the lease and must not own other suitable housing.

(viii) When more than one member of an entity, such as a corporation or a partnership, each possesses and occupies a separate homestead property, each may apply for homestead protection for his or her residence.

(ix) The borrower of the farm loan must have exhausted all remedies, as determined by SBA, for the extension or restructuring of such loan.

(3) *Appeal rights.* (i) If the application for homestead protection is denied by the SBA branch or district office which serviced the loan, the borrower shall be notified in writing of the decision to deny homestead protection. The borrower may then appeal the decision to the Regional Administrator having jurisdiction over the SBA branch or district office which initially denied the application for homestead protection. The property will not be leased or sold to third parties until any such appeal is concluded.

(ii) While the application is being processed up to and including the conclusion to any appeal, the borrower shall have the right to retain possession and occupancy of the homestead property which is the subject of the application.

(4) *Requirements of the lease.* (i) The lease between SBA and the successful applicant may cover only the homestead property. Sources of water, power lines, utility lines, sanitation facilities and/or access to such property may be located outside such property provided appropriate rights or easements are obtained. Appropriate arrangements will be made for continued use of water sources, utilities and sanitation facilities that will be jointly used. A right of entry and egress to a public way must exist or be provided to the homestead property.

(ii) No lease will be approved if, upon exercise of any option to purchase, the remaining COLPUR is not provided with access to a public way.

(iii) A survey and legal description of the property to be leased and/or purchased will be obtained by SBA. The cost of the survey will be charged to the COLPUR account.

(5) *Appraisal.* The value of the homestead property will be determined by an independent appraisal made within 6 months before or after the date on which the borrower's application is received by SBA. The appraiser shall be selected by the borrower from a list of three appraisers approved by the FmHA county supervisor. The cost of the appraisal shall be charged to the COLPUR account.

(6) *Rates and terms.* The lease shall be for a period not to exceed 5 years pursuant to written request of the applicant. A lease of less than 5 years may be renewed, but not beyond 5 years from the original lease. Every lease will contain an option to purchase.

(i) The amount of the lease payments shall be substantially equivalent to rents charged for similar residential properties in the area in which the homestead property is located, as determined by SBA.

(ii) The borrower will remit lease payments to SBA according to SBA instructions in the lease and such payments shall be retained by SBA.

(iii) Failure to make lease payments as scheduled or to maintain the property in good condition shall constitute cause for termination of all rights of the lessee to possession and occupancy of the homestead property under this section. In effecting any such termination, SBA shall provide the lessee with a written notice of the intention to terminate in 60 days and an opportunity for an informal meeting at the branch or district office of SBA to resolve the issue. If, after such meeting, SBA decides to terminate lessee's rights, SBA shall notify lessee in

writing and shall comply with all applicable state and local laws governing eviction from residential property.

(iv) Any interference by the lessee with the SBA's efforts to lease or sell the remainder of the farm loan COLPUR shall constitute cause for the termination of all rights of the lessee to possession and occupancy of the residence and adjoining property under this section. This stipulation shall be a condition of all leases of homestead property made under this section.

(7) *Exercising the option to purchase.* (i) During, or at the end of, the lease period, the lessee shall have the right of first refusal to reacquire the homestead property under terms and conditions no less favorable than those offered to any other purchaser. If the sale of the homestead property is an installment sale, the purchase agreement shall require a down payment of no less than 20 percent of the purchase price.

(ii) The option price to the lessee shall be the appraised fair market value determined by an independent appraisal. Such independent appraisal shall be conducted, after the lessee requests the right to exercise such option, by an appraiser selected by the lessee from a list of three appraisers approved by the FmHA county supervisor. SBA shall not demand a payment for the homestead property that is in excess of such appraised fair market value.

(iii) Any sale pursuant to the exercise of the option will be handled as a sale of collateral under the regulations set forth herein with respect to disposal of collateral.

(8) *Contracts prior to acquisition.* SBA may enter into contracts under this subsection (b) prior to its acquisition of property.

(9) *State law in case of conflict.* Where state law is applicable to a borrower's situation, in the event of a conflict between subsection (b) hereof and any state law provision relating to the right of a borrower to designate for separate sale or redeem part or all of the real property securing a loan foreclosed by the lender, state law shall prevail.

* * * * *

Dated: June 18, 1990.

Susan Engeleiter,

Administrator.

[FR Doc. 90-19476 Filed 8-17-90; 8:45 am]

BILLING CODE 8025-01-M

13 CFR Part 124

RIN 3245-AC06

Minority Small Business and Capital Ownership Development Program—Amendments Affecting Tribally-owned Concerns

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is amending its Minority Small Business and Capital Ownership Development Program (8(a) Program) regulations as they relate to program participation by concerns owned by Indian tribes, including those owned by Alaska Native Corporations (ANCs). These amendments are intended to encourage participation of tribally-owned concerns in the 8(a) Program and to facilitate implementation of special Indian tribe exemptions, including the joint venture authority established by Congress in the Business Opportunity Development Reform Act of 1988.

EFFECTIVE DATE: This rule is effective on August 20, 1990.

ADDRESSES: Sally B. Narey, General Counsel, Small Business Administration, 1441 L. Street, NW., Room 700, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: David J. Whitehorse Klauser, Attorney Advisor, (202) 653-6381.

SUPPLEMENTARY INFORMATION: On August 21, 1989, the SBA published a final rule in the **Federal Register** (54 FR 34692), which revised SBA's 8(a) Program. The revisions implemented changes to the 8(a) Program required by the Business Opportunity Develpment Reform Act of 1988 (Reform Act) (Pub. L. 100-656) and the Business Opportunity Development Reform Act Technical Corrections Act (Technical Corrections Act) (Pub. L. 101-37) and incorporated into the regulations existing Agency policy as well as some policy changes. In particular, §§ 124.112, 124.311 and 124.321 of the regulations address 8(a) Program eligibility and participation of tribally-owned concerns and implement the special exemptions provided to tribally-owned concerns by section 602 of the Reform Act. Specifically, section 602 of the Reform Act provides for three exemptions: first, tribally-owned concerns are exempt from the statutory requirement that 8(a) contracts above certain dollar thresholds be awarded through competition; second, tribally-owned concerns are exempt from the size requirements if they exceed the size standard by virtue of participation in a joint venture with a large business, provided that the joint venture meets certain statutory requirements and that the concern has not participated in more than one other such joint venture; and finally, tribes are exempt from the constraint of one-time participation in the 8(a) program, which applies to disadvantaged individuals who use their disadvantaged status to qualify a concern for 8(a) Program participation.

Representatives of Indian tribes, Alaska Native Corporations (ANCs) and tribally-owned concerns have expressed their views that SBA's implementation of the Reform Act has limited and, in some cases, nullified, the effect of the exemptions and has posed other barriers to 8(a) program participation by tribally-owned concerns. As a result of the comments from these groups, SBA has examined the 8(a) program regulations as they relate to tribally-owned concerns and is amending certain provisions.

On May 3, 1990, the SBA published a proposed rule in the **Federal Register** (55 FR 18615). This rule proposed amendments to SBA's 8(a) Program regulations as they relate to program participation by concerns owned by Indian tribes, including those owned by Alaska Native Corporations. The rationale for these amendments was published with the proposed rule in the **Federal Register** on May 3, 1990 (55 FR 18615). The first amendment will establish a waiver provision for the "two year in business rule" upon a showing by the concern of a marketing and development strategy for meeting the 8(a) program competitive business mix requirements without undue reliance on 8(a) contract awards. Even with the waiver, however, a tribally-owned concern will continue to be required to meet the other requirements of potential for success.

The second amendment will permit a tribally-owned concern to participate in the 8(a) program if its CEO is a member of *any* economically disadvantaged tribe. Currently, the CEO must be a member of the applicant tribe.

The third amendment will permit 8(a) contract opportunities to be identified by a non-8(a) joint venture partner, which could include a large business. Current rules permit such opportunities to be identified only by the 8(a) concern or SBA.

Finally, the rule will clarify that the restrictions on non-disadvantaged ownership are not intended to affect participation in qualified 8(a) joint venture agreements.

SBA sent copies of the proposed rule to 57 interested groups. SBA received four comment letters during the 30-day

comment period. Two were favorable, one recommended that SBA adopt additional changes to benefit tribally-owned concerns, and one opposed the proposed rulemaking. In total, there were eight suggestions for change which SBA received and considered. Of these eight, three were not relevant to the proposed rulemaking. The following describes SBA's analysis of the remaining five suggestions:

One comment was opposed to the amendment to 124.107 entitled "potential for success," unless the waiver provision were made applicable to all qualified applicants for 8(a) certification.

After consideration of this comment, SBA has decided against its adoption. SBA has determined that providing a waiver provisions for tribally-owned applicants from the two-year business criterion of potential for success is appropriate for tribally-owned 8(a) applicants only, because of the unique attributes of tribally-owned concerns.

Another comment suggested that there may be a possible conflict between the SBA's proposed amendment to § 124.112(c)(4) and the Small Business Act, as amended by Public Law 99–272, which requires that tribally-owned concerns, except those owned by ANC's, be managed by members of the economically disadvantaged Indian Tribe which owns the company.

SBA does not believe any such conflict exists. It is the SBA General Counsel's opinion that section 8(a)(4) of the Small Business Act does not mandate that the tribal member who manages the concern be a member of the same tribe which owns the concern. The statute requires only that management and control be by a member of an economically disadvantaged Indian tribe. (Section 8(a)(4)(B)(ii). Therefore, the SBA concludes that section 8(a)(4) of the Small Business Act supports the rule as proposed which would permit a member of any economically disadvantaged tribe to serve as the person with management and control responsibilities of the tribally-owned concern, and has not adopted this comment.

Another comment suggested that the proposed amendment to § 124.321(h)(2) relating to identifying contract opportunities for joint ventures should apply to all 8(a) participants in order to allow 8(a) concerns additional assistance to compete on an equal basis in the mainstream of the American economy. The comment suggested that if the amendment did not apply to all 8(a) participants then this restriction along with others could create a staggering burden to eligible small business concerns and would also run counter to the goals of the Business Opportunity Development Reform Act of 1988, which was developed as a means to improve opportunities for small businesses.

Section 124.321(h)(2), which is being deleted by this rule change, only impacts tribally-owned concerns. Even assuming that the comment is referring to the tribally-owned concern joint venture size exemption of § 124.321(h) this exemption was made a final regulation on August 21, 1989 by publication in the **Federal Register**, and follows the statutory mandate to create such a provision for the benefit of tribally-owned concerns. The time to comment on § 124.321(h) has long since expired, with no comments regarding the provision having been submitted to SBA within the appropriate public comment period. Therefore, SBA has not adopted this comment.

Another comment suggested that the amendment to § 124.103 should be expanded to include tribal applications where a non-8(a) concern in the same or similar line of business has more than 10 percent ownership and "adverse control" is not evidenced. The comment suggested that such inclusions would remove the conflict that proposed amendment to § 124.103 would create for potential tribal/large business joint ventures.

The SBA is not adopting this comment. It is the Agency's view that the amendments to § 124.103 will sufficiently remove the potential conflict between the provisions of § 124.103 and the joint venture authority for tribally-owned concerns, which allows them to joint venture with any entity regardless of size.

One comment was concerned that even with the change, § 124.107 fails to address the issue of exclusion of tribal officials from the Board of Directors of tribally-owned concerns. The comment suggested that the SBA should recognize the legal/political environment within which tribes must operate and the limited pool of talented Indian business and industry professionals. The comment further noted that members of a tribal council can add one or more positive elements to a well rounded board of directors when they are barred from the conflicts of daily management. Thus, the comment suggested that the SBA should show cause for barring a tribal council member upon application, rather than requiring prior written approval for participation by request to the SBA.

Specifically, the comment noted that § 124.112(c)(4) allows for control and management of tribally-owned concerns by committees, teams or Boards as long as the daily management and operations are controlled by an individual Indian. Thus, the comment suggested that the SBA should show cause for barring a tribal council member upon application, rather than requiring prior written approval for participation by request to the SBA.

Under existing regulations members of the tribal council would be allowed to participate in the daily management of a tribally-owned Participant or serve on its Board of Directors if they receive prior written approval from the SBA. As noted in the final promulgation of this requirement (August 21, 1989, 54 FR 34692), the SBA will generally allow Tribal Council members to serve as directors of tribally-owned 8(a) concerns, unless the relationship would cause affiliation due to common management, or would otherwise detract from the business development goals of the 8(a) program.

Compliance with Executive Orders 12291 and 12612, the Regulatory Flexibility Act, the Paperwork Reduction Act

SBA certifies that this final rule is not a major rule for purposes of Executive Order 12291 because it is unlikely to have an annual economic effect of $100 million or more. SBA also certifies that a Federalism Assessment is not required under Executive Order 12612. SBA certifies that this final rule does not have a significant economic effect on a substantial number of small entities.

The requirements of § 124.112(c) are likely to impose reporting requirements on 10 or more persons. Therefore, as required by the Paperwork Reduction Act, 44 U.S.C. chapter 35, SBA has submitted these requirements to the Office of Management and Budget and they have been approved under approval number 3245–0015.

Lists of Subjects in 13 CFR Part 124

Government procurement, Minority business, Technical assistance.

PART 124—[AMENDED]

Accordingly, pursuant to the authority set forth in sections 5(b)(6), 7(j) and 8(a) of the Small Business Act, 15 U.S.C. 634(b)(6), 636(j) and 637(a), SBA is amending 13 CFR Part 124, Subpart A as follows:

1. The authority citation continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(j), 637(a), 637(d), and Pub. L. 99–661, Sec. 1207, Pub. L. 100–656, and Pub. L. 101–37.

§ 124.103 [Amended]

2. Sections 124.103 Ownership requirements paragraphs (g) and (h) are amended by adding the following sentence at the end of each paragraph:

"The restrictions of this paragraph are not intended to affect the ability of an 8(a) concern to participate in any joint venture agreement that meets the requirements of § 124.321."

§ 124.107 [Amended]

3. Section 124.107 *Potential for Success* is amended in the introductory text by adding the following to the beginning of the first sentence: "Except for tribally-owned applicant concerns which must meet the requirements of § 124.112(c)(6),"

4. Section 124.112 Concerns owned by Indian tribes, including Alaska Native Corporations is amended by revising the first two sentences of paragraph (c)(4)(i), redesignating paragraph (c)(6) as paragraph (c)(7), adding a new paragraph (c)(6), and revising newly redesignated paragraph (c)(7), to read as follows:

§ 124.112 Concerns owned by Indian tribes, including Alaska Native Corporations.

* * * * *

(c) * * *

(4)(i) Except for concerns owned by ANCs, the management and daily business operations of a tribally-owned concern must be controlled by an individual member(s) of an economically disadvantaged tribe, who does not manage and control more than one other tribally-owned 8(a) Program Participant. In addition, such manager(s) must be found to possess the requisite management or technical capabilities as determined by SBA. * * *

* * * * *

(6) *Potential for success.* (i) SBA will approve a tribally-owned concern, including a concern owned by an Alaska Native Corporation (ANC), for 8(a) Program participation only when it finds that:

(A) Either the applicant concern has been in business in its primary industry classification for two full years or a waiver is granted pursuant to paragraph (c)(6)(ii); and

(B) The concern meets the requirements of paragraph (c)(6)(iii) regarding potential success.

(ii) The AA/MSB&COD will waive the two year in business requirement for a tribally-owned concern if he/she finds that the concern has a marketing and development strategy for meeting the 8(a) program competitive business mix requirements of § 124.312 without undue dependence on one or more contracts anticipated to be awarded under 8(a) program authority.

(iii) In determining whether a tribally-owned concern has the potential for success, SBA will look at a number of factors including, but not limited to:

(A) The technical and managerial experience and competency of the individual(s) who will manage and control the daily operations of the tribally-owned concern;

(B) The financial capacity of the tribally-owned concern; and

(C) The concern's record of performance on any previous Federal or private sector contract in the primary industry in which the concern is seeking 8(a) certification.

(7) *Other eligibility criteria.* (i) A tribally-owned applicant concern shall not be denied admission into the 8(a) program due solely to a determination that specific contract opportunities are unavailable to assist the development of the concern unless:

(A) The Government has not previously procured and is unlikely to procure the types of products or services offered by the concern; or

(B) The purchase of such products or services by the Federal Government will not be in quantities sufficient to support the developmental needs of the applicant and other Program Participants providing the same or similar items or services.

(ii) Applicant must meet the eligibility criteria set forth in §§ 124.108 and 124.109.

§ 124.321 [Amended]

5. Section 124.321(h)(2) is removed, and paragraphs (h)(3) and (h)(4) of § 124.321 are redesignated as paragraphs (h)(2) and (h)(3), respectively.

Dated: July 26, 1990.

Susan S. Engeleiter,

Administrator.

[FR Doc. 90-19475 Filed 8-17-90; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 771, 773, 779, 785, 786 and 799

[Docket No. 900676-0176]

Removal of Foreign Policy Controls on Exports to Namibia

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration is amending the Export Administration Regulations to remove foreign policy controls on exports to Namibia. The controls were imposed pursuant to the Comprehensive Anti-Apartheid Act of 1986 and because Namibia was under South African administration. In recognition of Namibian independence, those controls ended on March 21, 1990, the date South African administration of Namibia ended. U.S. export control policy toward Namibia will then be the same as for other countries in Country Group V. The export controls imposed under the authority of section 6 of the Export Administration Act of 1979, as amended, will continue to apply to South Africa.

EFFECTIVE DATE: This rule was effective as of March 21, 1990.

FOR FURTHER INFORMATION CONTACT: John Bolsteins, Office of Technology and Policy Analysis, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230. Telephone: 202-377-3160.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. This rule is consistent with Executive Orders 12291 and 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections were approved by the Office of Management and Budget (OMB) under Control Numbers 0694-0002, 0694-0005, 0694-0006, 0694-0015, 0694-0023, and 0694-0028. There will be a small decrease in the burden hours.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. Section 13(a) of the Export Administration Act of 1979 (EAA), as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a

delay in effective date. This rule also is exempt from these APA requirements because it involves a foreign affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Accordingly, it is being issued in final form. However, comments from the public are welcome on a continuing basis. Comments should be submitted to Sharon Gongwer, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects

15 CFR Parts 771, 773, 786 and 799

Exports, Reporting and recordkeeping requirements.

15 CFR Part 779

Computer technology, exports, reporting and recordkeeping requirements, science and technology.

15 CFR Part 785

Communist countries and exports.

Accordingly, parts 771, 773, 779, 785, 786 and 799 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

PARTS 771, 773, 779, 785, 786, and 799—[AMENDED]

1. The authority citations for 15 CFR parts 771, 773, 779, 785, 786 and 799 continue to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97–145 of December 29, 1981, by Pub. L. 100–418 of August 23, 1988, and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99–440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

§§ 771.2, 773.1, 773.3, 773.7, 779.4, 785.4, and 786.6 [Amended]

2. The words "or Namibia" are removed wherever they appear in the following sections:

771.2(c)(11)—2 references
773.1(a)(1)(i)
773.1(a)(1)(iv)
773.1(a)(2)(i)—text and certification paragraph—4 references
773.1(a)(2)(ii)—certification paragraph
773.3(d)(3)(ii)(E)(*3*)—introductory text
773.3(d)(3)(ii)(E)(*3*)(*i*)—text and certification paragraph—4 references
773.3(d)(3)(ii)(E)(*3*)(*ii*)—text and certification paragraph—2 references
773.3(d)(3)(E)(ii)(*3*)(*iii*)—text paragraph—2 references
773.7(b)(7)
779.4(e)(1)—2 references
779.4(e)(2)—2 references
785.4(a)(2)
785.4(a)(3)—2 references
785.4(a)(4)
785.4(a)(6)
785.4(a)(9)(iii)
785.4(a)(9)(iv)(B)
786.6(a)(1)—introductory text
786.6(c)—introductory text

§ 771.4 [Amended]

3. The words "or Namibia (South West Africa)" are removed from § 771.4(b)3.

§§ 771.5, 771.16, 773.1, 773.3, 779.4, Supplement No. 2 to Part 779, 785.4, and 786.6 [Amended]

4. The words, "and Namibia" are removed wherever they appear in the following sections:

771.5(d)(2)
771.16—introductory paragraph
773.1(a)(1)—introductory text—2 references
773.1(a)(2)(i)—heading
773.1(a)(2)(ii)—heading
773.3(d)(3)(ii)(E)(*3*)(*iii*)—certification paragraph
779.4(e)—heading
Supplement No. 2 to part 779—undesignated center heading
785.4(a)—heading and introductory text—2 references
785.4(a)(1)
785.4(a)(5)
785.4(a)(9)(iii)—certification paragraph
785.4(a)(13)—introductory text and concluding text—3 references
786.6(a)(1)—heading
786.6(a)(2)—heading and text—2 references

§ 773.2 [Amended]

5. Section 773.2(b) is amended by removing the phrase "and Namibian" from the introductory paragraph.

6. Section 785.4(a) is amended by adding a new paragraph (a)(14) to read as follows:

§ 785.4 Country Groups T & V.

(a) * * *

(14) The South African administration of the port of Walvis Bay requires special attention because of the possibility that commodities or technical data entering Walvis Bay will be available to South Africa. Accordingly, shipments to and for consumption in Walvis Bay will be considered exports to South Africa. Shipments passing through Walvis Bay to Namibia are not subject to the controls on exports to South Africa. The purpose of this action is not to deny commodities to Namibia nor to imply recognition of South Africa's claim of sovereignty over Walvis Bay. Instead, the goal is to implement more effectively the foreign policy controls already in place for South Africa.

* * * * *

§ 779.4, and 785.4 [Amended]

7. The words, "these destinations" are revised to read, "South Africa" wherever they appear in the following sections:

779.4(e)(1)
785.4(a)(2)
785.4(a)(3)
785.4(a)(13)—introductory text

§ 786.6 [Amended]

8. Section 786.6(a)(2) is amended by removing the phrase "(Namibia)" from the destination control statement.

Supplement No. 1 to § 799.1

9. In Supplement No. 1 to section 799.1, (the Commodity Control List), the following Export Control Commodity Numbers (ECCN) are amended by removing the words "and Namibia" "or Namibia" and "Namibia" wherever they appear:

Commodity Group 0 (Metal-Working Machinery)—
ECCN 2018A—3 references
ECCN 6099G—2 references
Commodity Group 1 (Chemical and Petroleum Equipment)—
ECCN 2118A—3 references
ECCN 6199G—2 references
Commodity Group 2 (Electrical and Power-Generating Equipment)—
ECCN 6294F—2 references
ECCN 6299G—2 references
Commodity Group 3 (General Industrial Equipment)—
ECCN 2317A—3 references
ECCN 6394F—2 references
ECCN 6399G—2 references
Commodity Group 4 (Transportation Equipment)—
ECCN 2406A—3 references
ECCN 3410A—3 references
ECCN 1460A—2 references
ECCN 2460A
ECCN 5460F—2 references
ECCN 6460F
ECCN 6490F—2 references
ECCN 6494F—2 references
ECCN 6498F—2 references
ECCN 6499G—2 references
Commodity Group 5 (Electronics and Precision Instruments)—

ECCN 1510A—2 references
ECCN 1565A—2 references
ECCN 6565G—2 references
ECCN 1567A—2 references
ECCN 5585C—2 references
ECCN 6594F—2 references
ECCN 6598F—2 references
ECCN 6599G—2 references
Commodity Group 6 (Metals, Minerals and Their Manufactures)—
ECCN 2603A—3 references
ECCN 4699G—2 references
ECCN 6699G—2 references
Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials)—
ECCN 4781B—2 references
ECCN 4782B—3 references
ECCN 4783B—3 references
ECCN 4784B—3 references
ECCN 5798F—2 references
ECCN 6799G—2 references
Commodity Group 8 (Rubber and Rubber Products)—
ECCN 6899G—2 references
Commodity Group 9 (Miscellaneous)—
ECCN 2901A—3 references
ECCN 6994F—2 references
ECCN 5998B—5 references
ECCN 6998F—4 references
ECCN 6999G—2 references

Supplement No. 1 to § 799.1 [Amended]

10. In Supplement No. 1 to section 799.1, (the Commodity Control List), the following Export Control Commodity Numbers are amended by revising the words "these destinations" to read, "South Africa" wherever they appear:
Commodity Group 0 (Metal-Working Machinery)—
ECCN 6099G
Commodity Group 1 (Chemical and Petroleum Equipment)—
ECCN 6199G
Commodity Group 2 (Electrical and Power-Generating Equipment)—
ECCN 6294F
ECCN 6299G
Commodity Group 3 (General Industrial Equipment)—
ECCN 6394F
ECCN 6399G
Commodity Group 4 (Transportation Equipment)—
ECCN 6490F
ECCN 6494F
ECCN 6498F
ECCN 6499G
Commodity Group 5 (Electronics and Precision Instruments)—
ECCN 1510A
ECCN 6565G
ECCN 6598F
ECCN 5585C
ECCN 6599G
Commodity Group 6 (Metals, Minerals and Their Manufactures)—
ECCN 4699G
ECCN 6699G
Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials)—
ECCN 5798F
ECCN 6799G
Commodity Group 8 (Rubber and Rubber Products)—
ECCN 6899G
Commodity Group 9 (Miscellaneous)—
ECCN 6994F

Supplement No. 1 to § 799.1 [Amended]

11. In Supplement No. 1 to section 799.1, (the Commodity Control List), the following Export Control Commodity Numbers are amended by revising the words "those destinations" to read, "South Africa" wherever they appear:
Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials)—
ECCN 4781B
ECCN 4782B
ECCN 4783B
ECCN 4784B

Supplement No. 1 to § 799.1 [Amended]

12. In Supplement No. 1 to section 799.1 (the Commodity Control List), Commodity Group 4 (Transportation), ECCN 1460A is amended by:
Adding the word "and" immediately following the word "Yemen" in the Note beginning with the words "Nonmilitary aircraft".;
Adding the word "and" immediately following the word "Syria" in the "Special Foreign Policy Controls" paragraph.

Supplement No. 1 to § 799.1 [Amended]

13. In Supplement No. 1 to section 799.1, (the Commodity Control List), Commodity Group 4 (Transportation), ECCN 2460A is amended by adding the word "and" immediately following the word "Syria" in the "Special Foreign Policy Controls" paragraph.

Supplement No. 1 to § 799.1 [Amended]

14. In Supplement No. 1 to section 799.1 (the Commodity Control List), Commodity Group 4 (Transportation), ECCN 5460F is amended by:
Adding the word "and" immediately after the word "Iran" in the "Validated License Required" paragraph;
Adding the word "and" immediately after the word "Yemen" in the Note.

Supplement No. 1 to § 799.1 [Amended]

15. In Supplement No. 1 to section 799.1, (the Commodity Control List), Commodity Group 4 (Transportation), ECCN 6460F is amended by adding the word "and" immediately following the word "Syria" in the "Validated License Required" paragraph.

Supplement No. 1 to § 799.1 [Amended]

16. In Supplement No. 1 to section 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 6594F is amended by adding the word "and" and by deleting the comma immediately after the phrase "SZ" in the "Validated License Required" paragraph.

Dated: August 7, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90-19486 Filed 8-17-90; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 775

Procedures for Implementing the National Environmental Policy Act

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: These final regulations provide procedures for Department of the Navy compliance with the National Environmental Policy Act of 1969, as amended. The Navy is required to give appropriate consideration to the environmental effects of its proposed actions in its decisionmaking, and to prepare detailed environmental statements on recommendations or reports significantly affecting the quality of the human environment. These final regulations will ensure compliance with the National Environmental Policy Act.

EFFECTIVE DATE: These final regulations will become effective August 20, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas J. Peeling, telephone (202) 325-7344/0521, Special Assistant for Environmental Planning, Office of the Deputy Chief of Naval Operations (Logistics), Room 10N67, Hoffman Building II, 200 Stovall Street, Alexandria, Virginia 22332-2300.

SUPPLEMENTARY INFORMATION: The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et. seq.) establishes national policy and goals for protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decisionmaking and to prepare detailed environmental statements on

recommendations or reports significantly affecting the quality of the human environment.

Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR parts 1500–1508) on November 29, 1978, which are binding on all federal agencies as of July 30, 1979. These regulations require each federal agency, as necessary, to adopt implementing procedures to supplement the CEQ regulations. Section 1507.3(b) of the CEQ regulations identifies those sections of the regulations which must be addressed in agency procedures.

The Department of the Navy (DON) is issuing today, in final form, regulations to implement the procedural provisions of the National Environmental Policy Act (NEPA) of 1969, as amended. Proposed regulations were published in the **Federal Register** on September 5, 1989 (54 FR 36818) for public review and comment. Comments were received from three federal agencies, one state office, and one individual. The Department of the Navy would like to sincerely thank the commentors for the constructive review and recommendations submitted. All comments were given full consideration, and many recommendations were adopted in their entirety or in modified form. Some minor changes were made in the regulations in response to public comments and will not be discussed. The following material addresses changes made in the regulations in response to major comments.

The most prominent concern expressed by commentors was that the list of categorical exclusions was too broad in scope. In particular, categorical exclusions 32 CFR 775.6(c)(7) and 32 CFR 775.6(c)(19), which would exclude preparation of master plans and natural resources management plans, and identification, characterization, and clean-up of hazardous sites/materials, respectively, were viewed as being overly broad in scope. The Department of the Navy agrees that those two proposed categorical exclusions could not be made specific enough to satisfy the concerns raised and therefore have been deleted from this final rule.

One agency comment concerned the review of NEPA documentation prepared for classified projects. Section 775.5 has been revised to provide for coordination of classified NEPA documentation with the Environmental Protection Agency to ensure appropriate regulatory review. One commentor expressed concern that the Navy had deviated from the Council on Environmental Quality definition of categorical exclusion (40 CFR 1508.4) by inserting the phrase "under normal circumstances" in § 775.6(c). Section 775.6(c) has been revised to define more clearly "normal circumstances" under which categorical exclusions apply and to provide a definition of "extraordinary circumstances" as required by 40 CFR 1508.4. Several proposed categorical exclusions have been revised or deleted in response to general comments received:

Proposed 775.6(c)(1)—deleted;
Proposed 775.6(c)(6)—deleted;
Proposed 775.6(c)(7)—deleted;
Proposed 775.6(c)(10)—revised, becomes Final 775.6(e)(7);
Proposed 775.6(c)(12)—revised, becomes Final 775.6(e)(9);
Proposed 775.6(c)(15)—deleted;
Proposed 775.6(c)(16)—deleted;
Proposed 775.6(c)(19)—deleted;
Proposed 775.6(c)(21)—revised, becomes Final 775.6(e)(15);
Proposed 775.6(c)(24)—revised, becomes Final 775.6(e)(18);
Proposed 775.6(c)(25)—revised, becomes Final 775.6(e)(19);
Proposed 775.6(c)(36)—revised, becomes Final 775.6(e)(30);
Proposed 775.6(c)(38)—revised, becomes Final 775.6(e)(32);
Proposed 775.6(c)(39)—revised, becomes Final 775.6(e)(33);

Section 775.11, Public Participation, has also been revised to add emphasis to this important component of the NEPA process.

List of Subjects in 32 CFR Part 775

Environmental impact statements.

Accordingly, 32 CFR part 775 is revised to read as follows:

PART 775—PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT

Sec.
775.1 Purpose.
775.2 Scope.
775.3 Policy.
775.4 Responsibilities.
775.5 Classified actions.
775.6 Planning considerations.
775.7 Time limits for environmental documents.
775.8 Scoping.
775.9 Documentation and analysis.
775.10 Relations with state, local and regional agencies.
775.11 Public participation.
775.12 Action.

Authority: 5 U.S.C. 301; 42 U.S.C. 4321–4361; 40 CFR parts 1500–1508.

§ 775.1 Purpose.

To supplement Department of Defense (DOD) regulations (32 CFR part 214) by providing policy and assigning responsibilities to the Navy and Marine Corps for implementing the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508) implementing procedural provisions of the National Environmental Policy Act (NEPA).

§ 775.2 Scope.

The policies and responsibility assignments of this part apply to the Office of the Secretary of the Navy, the Department of the Navy (DON), and the Navy and Marine Corps operating forces and shore establishments. This part is limited to the actions of these elements with environmental effects in the United States, its territories, and possessions.

§ 775.3 Policy.

(a) The Department of the Navy will act with care to ensure that, in conducting its mission of providing for the national defense, it does so in a manner consistent with national environmental policies. In so doing, the Navy recognizes that the NEPA process includes the systematic examination of the likely environmental consequences of implementing a proposed action. To be an effective decisionmaking tool this process will be integrated with other Navy-Marine Corps project planning at the earliest possible time. This ensures that planning and decisionmaking reflect environmental values, avoid delays, and avoid potential conflicts. Care will be taken to ensure that, consistent with other national policies and national security requirements, practical means and measures are used to protect, restore, and enhance the quality of the environment, to avoid or minimize adverse environmental consequences, and to attain the objectives of:

(1) Achieving the widest range of beneficial uses of the environment without degradation, risk to health and safety, or other consequences that are undesirable and unintended;

(2) Preserving important historic, cultural, and natural aspects of our national heritage, and maintaining, where possible, an environment that supports diversity and variety of individual choice;

(3) Achieving a balance between resource use and development within the sustained carrying capacity of the ecosystem involved; and

(4) Enhancing the quality of renewable resources and working

toward the maximum attainable recycling of depletable resources.

(b) The DON shall:

(1) Assess environmental consequences of proposed actions that could affect the quality of the human environment in the United States, its territories, and possessions in accordance with DOD and CEQ regulations;

(2) Use a systematic, interdisciplinary approach that will ensure the integrated use of the natural and social sciences and environmental considerations in planning and decisionmaking where there may be an impact on man's environment;

(3) Ensure that presently unmeasured environmental amenities are considered in the decisionmaking process;

(4) Consider the reasonable alternatives to recommended actions in any proposal that would involve unresolved conflicts concerning alternative uses of available resources;

(5) Make available to states, counties, municipalities, institutions, and individuals advice and information useful in restoring, maintaining, and enhancing the quality of the environment; and

(6) Use ecological information in planning and developing resource-oriented projects.

§ 775.4 Responsibilities.

(a) The Assistant Secretary of the Navy for Installations and Environment (ASN(I&E)) shall:

(1) Advise the Secretary of the Navy on DON policy regarding NEPA compliance.

(2) Be the principal point-of-contact with the CEQ, Environmental Protection Agency (EPA), the Deputy Assistant Secretary of Defense for Environment (DASD(E)), other DOD components and federal agencies concerned with NEPA matters, and with private environmental groups as applicable.

(3) Direct and/or, upon recommendation, approve the preparation of Environmental Impact Statements (EIS); and, after preparation, approve and forward said statements to the EPA and DASD(E) for review and comment.

(4) Approve and forward to the Navy Judge Advocate General (JAG) Findings of No Significant Impact (FONSI) for publication in the **Federal Register** for those actions of national concern that the Navy/Marine Corps has determined will not have a significant effect on the quality of the human environment and for which an EIS will not be prepared.

(5) Approve and forward to the Navy JAG, for publishing in the **Federal Register**, a Record of Decision (ROD) which will summarize for the public record the decision made by the Navy/Marine Corps among the alternatives presented in a Final EIS.

(6) Maintain liaison with the Chief of Information who will coordinate with the Assistant Secretary of Defense (Public Affairs) those environmental matters which have significant public affairs implications.

(7) Maintain liaison with the Office of Legislative Affairs who will coordinate with the Assistant Secretary of Defense (Legislative Affairs) and the Congress those environmental matters which have significant legislative implications.

(b) The Chief of Naval Operations, or his designee(s), and the Commandant of the Marine Corps, or his designee(s), are responsible, within their respective services, for NEPA compliance, which includes:

(1) Implementing DON policy regarding protection of the environment to include NEPA compliance.

(2) Advising commands of the requirement for submitting environmental assessments or impact statements and identifying major decision points in the chain of command where environmental effects shall be considered.

(3) Making decisions on environmental assessments as to whether a Finding of No Significant Impact is appropriate or preparation of an environmental impact statement is required.

(4) Coordinating, as appropriate, with CEQ, EPA, DASD(E), ASN(I&E), other DOD components and federal agencies concerned with environmental matters.

(5) Serving as the point of contact for DON environmental matters.

(6) Coordinating, as appropriate, with the Chief of Information for the release to the public of environmental assessments, impact statements, Findings of No Significant Impact, and other environmental documents, according to the Freedom of Information Act and other applicable federal laws.

(7) Providing assistance for actions initiated by private persons, state or local agencies and other non-DON/DOD entities for which DON involvement may be reasonably foreseen.

(8) Ensuring that relevant environmental documentation accompanies all proposals for action through the appropriate review process so that such information is available to the decision maker.

(c) The Chief of Naval Operations and the Commandant of the Marine Corps are to comply with these procedures by subsequently directing subordinates to:

(1) Ensure all appropriate instructions, directives, and orders include the requirement for funding and planning for environmental documentation, as required.

(2) Conduct analyses of the environmental effects of current and proposed actions in accordance with DOD regulations, CEQ regulations (40 CFR parts 1500–1508), and other applicable regulations.

(3) Encourage, to the extent practicable, citizen participation in environmental evaluations of projects or programs.

(4) Evaluate environmental impacts at initial planning stages and at each following significant step or decision milestone in the development of a project or program, as warranted.

§ 775.5 Classified actions.

(a) The fact that a proposed action is of a classified nature does not relieve the proponent of the action from complying with NEPA and the CEQ regulations. Therefore, environmental documents shall be prepared, safeguarded and disseminated in accordance with the requirements applicable to classified information. When feasible, these documents shall be organized in such a manner that classified portions are included as appendices so that unclassified portions can be made available to the public. Review of classified NEPA documentation will be coordinated with the Environmental Protection Agency (EPA) to fulfill requirements of section 309 of the Clean Air Act (42 U.S.C. 7609 et. seq.).

(b) It should be noted that a classified EA/EIS serves the same "informed decisionmaking" purpose as does a published unclassified EA/EIS. Even though the classified EA/EIS does not undergo general public review and comment, it must still be part of the information package to be considered by the decisionmaker for the proposed action. The content of a classified EA/EIS (or the classified portion of a public EA/EIS) will therefore meet the same content requirements applicable to a published unclassified EA/EIS.

§ 775.6 Planning considerations.

(a) When integrating the NEPA process into early stages of proposed actions, action proponents will determine as early as possible the appropriate level of documentation required under NEPA, i.e., is the action a major federal action significantly affecting the human environment requiring an environmental impact statement (EIS), is the action one for which the impacts are not known or which may not be significant and,

therefore, an environmental assessment (EA), is appropriate, or is the action one that has no potential for significant impacts and can be categorically excluded from further NEPA documentation. In addition, CEQ regulations (40 CFR 1501.5 and 1501.6) require early identification of lead and cooperative agencies for preparation of an EIS for which more than one agency is involved or has special expertise in environmental issues to be addressed in the EIS.

(b) The command responsible for preparation of the appropriate documentation may prepare an EA on any action at any time in order to assist in planning and decisionmaking, including the decision whether or not to prepare an EIS. If a determination is made based on information presented in an environmental assessment that an EIS is not required, a Finding of No Significant Impact (FONSI) will be prepared and made available to the public in accordance with CEQ regulations (40 CFR 1506.6).

(c) CEQ regulations (40 CFR 1508.18(a)) define major federal actions subject to evaluation under NEPA to include, among other things, "new and continuing activities". The term "new activities" is intended to encompass future actions, i.e., those which are not ongoing at the time of the proposal. The term "continuing activities" which may necessitate the preparation of a NEPA document will be applied by the Department of Navy to include activities:

(1) Which are presently being carried out in fulfillment of the Navy mission and function, including existing training functions; and

(2) The currently occurring environmental effects of which have not been previously evaluated in a NEPA document, where:

(i) There is a discovery that substantial environmental degradation is occurring, or is likely to occur, as a result of ongoing operations. Examples: a discovery that significant beach erosion is occurring as a result of continuing amphibious exercises; new designation of wetland habitat or discovery of an endangered species residing in the area of the activity; and/or

(ii) There is a discovery that the environmental effects of an ongoing activity are significantly and qualitatively different or more severe than predicted in a NEPA document prepared in connection with the commencement of the activity.

A substantial change in a continuing activity (such as a substantial change in operational tempo, area of use, or in methodology/equipment) which has the potential for significant environmental impacts should be considered a proposal for a new action and be documented accordingly. Preparation of a NEPA document is not a necessary prerequisite, nor a substitute, for compliance with other environmental laws.

(d) Where emergency circumstances require immediate action, for the protection of lives and for public health and safety, which could result in significant harm to the environment, the activity Commanding Officer or his designee shall report the emergency action to CNO (OP–44E)/CMC (LFL) who will facilitate the appropriate consultation with CEQ as soon as practicable.

(e) CEQ regulations provide for the establishment of categorical exclusions (40 CFR 1508.4) for those actions which, after consideration by the Department of the Navy, have been found not to have a significant effect on the human environment, individually or cumulatively, under normal circumstances, and for which, therefore, neither an EA nor an EIS is required. Categorical exclusions are applicable to those kinds of Navy actions which do not significantly affect the quality of the human environment, which do not result in any significant change from existing conditions at the site of the proposed action, and whose effect is primarily economic or social. "Normal circumstances" means that the proposal, when analyzed with respect to context and intensity, can reasonably be expected to not cause significant impacts. Even though a proposal generally fits the description set out below for categorical exclusions, the categorical exclusion should not be used if the proposed action:

(1) Would affect public health or safety;

(2) Involves a site that includes wetlands, endangered or threatened species, historical or archaeological resources, or hazardous wastes;

(3) Involves effects on the human environment that are highly uncertain, involve unique or unknown risks, or which are scientifically controversial;

(4) Establishes precedents or makes decisions in principle for future actions with significant effects, or;

(5) Threatens a violation of federal, state or local law or requirements imposed for protection of the environment.

(f) A decision to forego preparation of an EA or EIS on the basis of one or more categorical exclusions shall be documented, including the exclusions found applicable, the facts supporting their use and specific consideration of whether the exceptions to the use of categorical exclusions, set out above, were applicable. The following are actions which, under normal conditions, are categorically excluded from further documentation requirements under NEPA:

(1) Routine personnel, fiscal, and administrative activities involving military and civilian personnel, e.g., recruiting, processing, paying, and records keeping.

(2) Reductions in force wherein impacts are limited to socioeconomic factors.

(3) Routine movement of mobile assets, such as ships and aircraft, in home port reassignments (when no new support facilities are required) to perform as operational groups, and/or repair and overhaul.

(4) Relocation of personnel into existing federally-owned or commercially-leased space which does not involve a substantial change in the supporting infrastructure (e.g., an increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase).

(5) Studies, data and information-gathering that involve no physical change to the environment, e.g., topographic surveys, bird counts, wetland mapping, forest inventories, and timber cruising.

(6) Routine repair and maintenance of facilities and equipment in order to maintain existing operations and activities, including maintenance of improved and semi-improved grounds such as landscaping, lawn care, and minor erosion control measures.

(7) Alteration of and additions to existing structures to conform or provide conforming use specifically required by new or existing applicable legislation or regulations, e.g., hush houses for aircraft engines and scrubbers for air emissions.

(8) Routine actions normally conducted to operate, protect, and maintain Navy-owned and/or controlled properties, e.g., maintaining law and order, physical plant protection by military police and security personnel, and localized pest management activities on improved and semi-improved lands conducted in accordance with applicable federal and state directives.

(9) New construction that is consistent with existing land use and, when completed, the use or operation of which complies with existing regulatory requirements and constraints, e.g., a building on a parking lot with associated discharges/runoff within existing

handling capacities, a bus stop along a roadway, and a foundation pad for portable buildings within a building complex.

(10) Procurement activities that provide goods and support for routine operations.

(11) Day-to-day manpower resource management and research activities that are in accordance with approved plans and inter-agency agreements and which are designed to improve and/or upgrade Navy ability to manage those resources.

(12) Decisions to close facilities, decommission equipment, and/or temporarily discontinue use of facilities or equipment (where such equipment is not used to prevent/control environmental impacts). This paragraph (f)(12) does not apply to permanent closure of public roads.

(13) Contracts for activities conducted at established laboratories and plants, to include contractor-operated laboratories and plants, within facilities where all airborne emissions, waterborne effluents, external radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing applicable federal, state, and local laws and regulations.

(14) Routine movement, handling and distribution of materials, including hazardous materials/wastes that when moved, handled, or distributed are in accordance with applicable regulations.

(15) Demolition, disposal, or improvements involving buildings or structures not on or eligible for listing on the National Register of Historic Places and when in accordance with applicable regulations, including those regulations applying to removal of asbestos, PCBs, and other hazardous materials.

(16) Acquisition, installation, and operation of utility and communication systems, data processing cable, and similar electronic equipment which use existing rights of way, easements, distribution systems, and/or facilities.

(17) Renewals and/or initial real estate ingrants and outgrants involving existing facilities and land wherein use does not change significantly. This includes, but is not limited to, existing federally-owned or privately-owned housing, office, storage, warehouse, laboratory, and other special purpose space.

(18) Grants of license, easement, or similar arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles (not to include significant increases in vehicle loading); electrical, telephone, and other transmission and communication lines; water, wastewater, stormwater, and irrigation pipelines, pumping stations, and facilities; and for similar utility and transportation uses.

(19) Transfer of real property from the Navy to another military department or to another federal agency, and the granting of leases (including leases granted pursuant to the agricultural outleasing program where soil conservation plans are incorporated), permits and easements where there is no substantial change in land use or where subsequent land use would otherwise be categorically excluded.

(20) Disposal of excess easement interests to the underlying fee owner.

(21) Renewals and minor amendments of existing real estate grants for use of government-owned real property where no significant change in land use is anticipated.

(22) Pre-lease exploration activities for oil, gas or geothermal reserves, e.g., geophysical surveys.

(23) Return of public domain lands to the Department of the Interior.

(24) Land withdrawal continuances or extensions which merely establish time periods and where there is no significant change in land use.

(25) Temporary closure of public access to Navy property in order to protect human or animal life.

(26) Engineering effort undertaken to define the elements of a proposal or alternatives sufficiently so that the environmental effects may be assessed.

(27) Actions which require the concurrence or approval of another federal agency where the action is a categorical exclusion of the other federal agency.

(28) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site.

(29) Installation of devices to protect human or animal life, e.g., raptor electrocution prevention devices, fencing to restrict wildlife movement onto airfields, and fencing and grating to prevent accidental entry to hazardous areas.

(30) Natural resources management actions undertaken or permitted pursuant to agreement with or subject to regulation by federal, state, or local organizations having management responsibility and authority over the natural resources in question, including hunting or fishing during hunting or fishing seasons established by state authorities pursuant to their state fish and game management laws. With regard to natural resources regulated by another federal agency, the responsible command may cooperate in any environmental analysis that may be required by the other agency's regulations.

(31) Approval of recreational activities which do not involve significant physical alteration of the environment or increase human disturbance in sensitive natural habitats and which do not occur in or adjacent to areas inhabited by endangered or threatened species.

(32) Routine maintenance of timber stands, including issuance of down-wood firewood permits, hazardous tree removal, and sanitation salvage.

(33) Reintroduction of endemic or native species (other than endangered or threatened species) into their historic habitat when no substantial site preparation is involved.

§ 775.7 Time limits for environmental documents.

(a) The timing of the preparation, circulation, submission and public availability of environmental documents is important in achieving the purposes of NEPA. Therefore, the NEPA process shall begin as early as possible in the decisionmaking process.

(b) The EPA publishes a weekly notice in the **Federal Register** of environmental impact statements filed during the preceding week. The minimum time periods set forth below shall be calculated from the date of publication of notices in the **Federal Register**. No decision on the proposed action may take place until the later of the following dates:

(1) Ninety days after publication of the notice of availability for a draft environmental impact statement (DEIS). Draft statements shall be available to the public for 15 days prior to any public hearing on the DEIS (40 CFR 1506.6(c)(2)).

(2) Thirty days after publication of the notice of availability for a final environmental impact statement (FEIS). If the FEIS is available to the public within ninety days from the availability of the DEIS, the minimum thirty day period and the minimum nintey day period may run concurrently. However, not less than 45 days from publication of notice of filing shall be allowed for public comment on draft statements prior to filing of the FEIS (40 CFR 1506.10(c)).

§ 775.8 Scoping.

As soon as practicable after the decision to prepare an EIS is made, an early and open process called "scoping" shall be used to determine the scope of issues to be addressed and to identify the significant issues to be analyzed in

depth related to the proposed action (40 CFR 1501.7). This process also serves to deemphasize insignificant issues, narrowing the scope of the EIS process accordingly (40 CFR 1500.4(g)). Scoping results in the identification by the proponent of the range of actions, alternatives, and impacts to be considered in the EIS (40 CFR 1508.25). For any action, this scope may depend on the relationship of the proposed action to other existing environmental documentation.

§ 775.9 Documentation and analysis.

(a) Environmental documentation and analyses required by this rule should be integrated as much as practicable with any environmental studies, surveys and impact analyses required by other environmental review laws and executive orders (40 CFR 1502.25). When a cost-benefit analysis has been prepared in conjunction with an action which also requires a NEPA analysis, the cost-benefit analysis shall be integrated into the environmental documentation.

(b) CEQ regulations encourage the use of tiering whenever appropriate to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for discussion at each level of environmental review (40 CFR 1502.20). Tiering is accomplished through the preparation of a broad programmatic environmental impact statement discussing the impacts of a wide ranging or long term stepped program followed by narrower statements or environmental assessments concentrating solely on issues specific to the analysis subsequently prepared (40 CFR 1508.28).

(1) *Appropriate use of tiering*: Tiering is appropriate when it helps the lead agency to focus on issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe. (40 CFR 1508.28(b).) The sequence of statements or analyses is:

(i) From a broad program, plan, or policy environmental impact statement (not necessarily site specific) to a subordinate/smaller scope program, plan, or policy statement or analysis (usually site specific) (40 CFR 1508.28 (a)).

(ii) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation) (40 CFR 1508.28(b)).

(iii) In addition to the discussion required by these regulations for inclusion in environmental impact statements, the programmatic environmental impact statement shall also discuss:

(A) A description of the subsequent stages or sites that may ultimately be proposed in as much detail as presently possible;

(B) All of the implementing factors of the program that can be ascertained at the time of impact statement preparation;

(C) All of the environmental impacts that will result from establishment of the overall program itself that will be similar for subsequent stages or sites as further implementation plans are proposed; and

(D) All of the appropriate mitigation measures that will be similarly proposed for subsequent stages or sites.

(iv) The analytical document used for stage or site specific analysis subsequent to the programmatic environmental impact statement shall also be an environmental impact statement when the subsequent tier itself may have a significant impact on the quality of the human environment or when an impact statement is otherwise required. Otherwise, it is appropriate to document the tiered analysis with an environmental assessment to fully assess the need for further documentation or whether a FONSI would be appropriate.

§ 775.10 Relations with state, local and regional agencies.

Close and harmonious planning relations with local and regional agencies and planning commissions of adjacent cities, counties, and states, for cooperation and resolution of mutual land use and environment-related problems should be established. Additional coordination may be obtained from state and area-wide planning and development "clearinghouses". These are agencies which have been established pursuant to Executive Order 12372 of July 14, 1982 (3 CFR, 1982 Comp., p. 197). The clearinghouses serve a review and coordination function for Federal activities and the proponent may gain insights on other agencies' approaches to environmental assessments, surveys, and studies in relation to any current proposal. The clearinghouses would also be able to assist in identifying possible participants in scoping procedures for projects requiring an EIS.

§ 775.11 Public participation.

The importance of public participation (40 CFR 1501.4(b)) in preparing environmental assessments is clearly recognized and it is recommended that commands proposing an action develop a plan to ensure appropriate communication with affected and interested parties. The command Public Affairs Office can provide assistance with developing and implementing this plan. In determining the extent to which public participation is practicable, the following are among the factors to be weighed by the command:

(a) The magnitude of the environmental considerations associated with the proposed action;

(b) The extent of anticipated public interest; and

(c) Any relevant questions of national security and classification.

§ 775.12 Action.

The Chief of Naval Operations and the Commandant of the Marine Corps shall, each, as appropriate:

(a) Provide guidelines and procedures for administrative direction and implementation of this part and CEQ regulations; and

(b) Maintain a focal point for the coordination of the preparation of environmental assessments and impact statements.

Dated: August 13, 1990.

Jane M. Virga,

Lt, JAGC USNR, Department of the Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 90-19304 Filed 8-17-90; 8:45 am]

BILLING CODE 3810-AE-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1280

RIN 3095-AA06

Photographing and Filming the Exterior and Interior of the National Archives Building and Other NARA Facilities in the Washington, DC, Area

AGENCY: National Archives and Records Administration.

ACTION: Correction of final rule.

SUMMARY: The final rule on photographing and filming the National Archives Building and other NARA-occupied archival facilities published on July 20, 1990, contained typographical errors in the amendatory instruction paragraph. Those errors are corrected in this document.

EFFECTIVE DATE: August 20, 1990.

FOR FURTHER INFORMATION CONTACT: John Constance or Nancy Allard at 202-501-5110 (FTS 241-5110).

In the issue of July 20, 1990, on page 29577, in the first column, amendatory

paragraph 2. is corrected to read as follows:

"In subpart B, §§ 1280.12, 1280.14, 1280.16, 1280.18, 1280.20, 1280.22, and 1280.24 are redesignated as §§ 1280.16, 1280.18, 1280.20, 1280.22, 1280.24, 1280.26, and 1280.28, respectively, and new §§ 1280.12 and 1280.14 are added to read as follows:"

Dated: August 13, 1990.

John A. Constance,

Federal Register Liaison.

[FR Doc. 90-19478 Filed 8-17-90; 8:45 am]

BILLING CODE 7515-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900-AD94

Loan Guaranty: Pre-Foreclosure of Waiver or Compromise of Debts

AGENCY: Department of Veterans Affairs.

ACTION: Final Regulatory amendments; correction.

SUMMARY: On pages 31385-31387 of the **Federal Register** of August 2, 1990 (55 FR 31385), VA published a final rule to amend its loan guaranty regulations to establish a new procedure for the waiver and compromise of loan guaranty indebtedness. The supplementary information on page 31386 stated that "material fault" is deleted as a bar to consideration of a waiver request. However the words "material fault" were not deleted from the text of paragraphs (e) (1)(i) and (2)(ii) printed on page 31387 of the **Federal Register.** To correct this administrative oversight VA is printing the correct text for (e) (1)(ii) and (2)(ii).

VA regrets any confusion this error may have caused.

FOR FURTHER INFORMATION CONTACT: Mr. Leonard Levy, (202) 233-6376.

Charles A. Fountaine III,

Records Management Service.

PART 36—[AMENDED]

1. In 38 CFR part 36, § 36.4323, paragraphs (e)(1)(ii) and (e)(2)(ii) are corrected to read as follows:

§ 36.4323 Subrogation and indemnity

* * * * *

(e) * * *

(1) * * *

(ii) There are no indications of fraud, misrepresentation or bad faith on the part of the obligor in obtaining the loan or in connection with the loan default;

* * * * *

(2) * * *

(ii) There are no indications of fraud, misrepresentation or bad faith on the part of the obligor in obtaining the loan or in connection with the loan default;

* * * * *

[FR Doc. 90-19841 Filed 8-17-90; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-3805-2; Docket No. AM609VA]

Approval and Promulgation of Air Quality Implementation Plans Virginia Non-CTG Regulations to Control VOCS From Aluminum Rolling Mill Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia imposing reasonably available control technology (RACT) requirements for the control of volatile organic compound (VOC) emissions from the aluminum rolling mills at the Reynolds Metal-Foil Plant in Richmond, Virginia. The Commonwealth submitted this revision to impose RACT on a VOC source with emissions of 100 tons per year (TPY) or more for which EPA has not published a Control Technique Guideline (CTG). The RACT standard here is contained in a Consent Agreement and Order issued by the Commonwealth imposing emission requirements on the aluminum rolling mill operation at the Reynolds Metal-Foil Plant in Richmond, a non-CTG source of VOCs. This action is being taken in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: September 19, 1990.

ADDRESSES: Copies of this document and accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, 841 Chestnut Building, Philadelphia, PA 19107.

Virginia Department of Air Pollution Control, room 801, Ninth Street Office Building, P.O. Box 10089, Richmond, VA 23240.

Public Information Reference Unit, Library Systems Branch, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia H. Stahl, (215) 597-9337, at the EPA Region III address above. The commercial and FTS numbers are the same.

SUPPLEMENTARY INFORMATION: On December 17, 1987, the Commonwealth of Virginia submitted three State Implementation Plan (SIP) revisions in the form of Consent Agreements and Orders. These proposed revisions are designed to impose RACT on the aluminum rolling mills, tobacco processing and synthetic fiber manufacturing processes at three companies which emit VOCs. The Consent Agreements and Orders issued to Philip Morris for tobacco processing and to DuPont-Spruance for synthetic fiber manufacturing will be the subject of separate rulemaking actions.

The RACT requirements pertaining to aluminum rolling mills are applicable to Reynolds Metals-Foil Plant, located in Richmond, VA. The Richmond ozone nonattainment area, which currently includes Richmond City, and Chesterfield and Henrico Counties, received a State Implementation Plan (SIP) call on September 28, 1984. A SIP call is a finding made by EPA under section 110(a)(2)(H) of the Clean Air Act that the State's plan for attainment and maintenance of the National Ambient Air Quality Standard (NAAQS) is substantially inadequate to attain and maintain that standard. Virginia was required to submit, as part of its compliance with the SIP call, RACT requirements for any non-CTG sources which have the potential to emit 100 TPY or more VOCs. One of the source categories which Virginia identified is the aluminum rolling operation category. The Reynolds Metals-Foil Plant is the only source in the Richmond nonattainment area which has been identified in the aluminum rolling source category. Therefore, Virginia has chosen to submit a source-specific Consent Agreement and Order to satisfy its SIP commitment.

The RACT requirements for the aluminum rolling mills at the Reynolds Metals-Foil Plant are imposed in a Consent Agreement and Order No. DSE-597-87 dated December 21, 1987. That Order requires the Company to use a normal paraffin lubricant containing a minimum of 88 percent saturated aliphatic compounds or a carbon range of C12 and above. Compliance is to be determined by comparison of a gas chromatograph analysis of a grab sample taken at any rolling mill at the plant with a standard gas chromatograph analysis incorporated as part of the Order. Further details of the

RACT requirements for Reynolds' aluminum rolling mills can be found in the proposed rulemaking notice published on October 11, 1989 (54 FR 41629) and will not be restated here. No comments were received on that proposed rulemaking notice.

Final Action

EPA is approving, as a revision to the Virginia SIP, Consent Agreement and Order (DSE-597-87) for Reynolds Metals-Richmond Foil Plant existing foil rolling mills dated December 21, 1987, and effective May 1, 1988.

EPA's decision to approve this SIP revision regarding non-CTG RACT requirements for Reynolds' aluminum rolling mill operations is based on a determination that those requirements constitute RACT to control VOC emissions from those operations at the Reynolds plant, which is located in a nonattainment area for ozone.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). This action is not required to be reviewed by the Office of Management and Budget.

Nothing in this action, pertaining to the approval of non-CTG RACT requirements for aluminum rolling mills applicable to Reynolds Metals in Richmond, Virginia, should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic and environmental factors, and in relation to relevant statutory and regulatory requirements.

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 October 19, 1990. This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2).).

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: June 19, 1990.

Edwin B. Erickson,

Regional Administrator.

PART 52—RULEMAKING PAGE

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

Subpart VV—Virginia

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

Authority: 42 U.S.C. 7401-7642.

2. Section 52.2420 is amended by adding paragraph (c)(92) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(92) Revisions to the State Implementation Plan submitted by the Virginia Department of Air Pollution Control regarding non-CTG RACT requirements for aluminum rolling mills applicable to Reynolds Metals in Richmond, Virginia on December 17, 1987.

(i) Incorporation by reference.

(A) Letter from the Virginia Department of Air Pollution Control dated December 17, 1987 submitting a revision to the Virginia State Implementation Plan.

(B) Consent Agreement and Order (DSE-597-87) between the Virginia State Air Pollution Control Board and Reynolds Metals Company dated December 21, 1987 and effective May 1, 1988.

(ii) Additional Materials.

(A) Letter dated May 4, 1988 from James E. Sydnor, Assistant Executive Director, Programs, VASAPCB to Jesse Baskerville, EPA Region III responding to EPA's comments submitted for the public hearing on November 9, 1987 regarding the Reynolds RACT determination.

(B) Technical Support Document prepared by Reynolds Metals Company, dated September 30, 1987.

[FR Doc. 90-19569 Filed 8-17-90; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[FRL-3813-1]

Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Stack Height Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves the Oklahoma Air Pollution Control Regulation (OAPCR) 1.4.2(b) "Stack Height Limitation" which was submitted by the Governor on April 30, 1986, with additional information submitted on September 7, 1989. EPA proposed approval of the State's regulation on December 21, 1987, at 52 FR 48285, based upon the State's commitment to make minor revisions. No comments were received on the proposal.

Each State was required to review its State Implementation Plan (SIP) for consistency with the final Federal stack height regulations. The intended effect of this action is to formally document that Oklahoma has satisfied their obligations under Section 406 of the Clean Air Act (CAA) to review its SIP with respect to the EPA's revised stack height regulations and to finalize approval of the State's revised regulations.

EFFECTIVE DATE: This action will become effective on September 19, 1990.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs at the EPA Regional Office listed below. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-AP), 1445 Ross Avenue, Dallas, Texas 75202

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

Oklahoma State Department of Health (OSDH), Air Quality Service, 1000 Northeast 10th Street, Oklahoma City, Oklahoma 73152.

FOR FURTHER INFORMATION CONTACT: Gregg Guthrie, Region 6 Air Programs Branch (6T-AP), telephone number (214) 655-7214 or (FTS) 255-7214.

SUPPLEMENTARY INFORMATION: On February 8, 1982 (47 FR 5864), EPA promulgated final regulations limiting stack height credits and other dispersion techniques as required by section 123 of the CAA. These regulations were challenged in the U.S. Court of Appeals for the D.C. Circuit in *Sierra Club* v. *EPA*, 719. F.2d 436. On October 11, 1983, the court issued its decision ordering EPA to reconsider portions of the stack height regulations, reversing certain portions and upholding other portions.

On February 28, 1984, the electric power industry filed a petition for a writ of certiorari with the U.S. Supreme Court. On July 2, 1984, the Supreme Court denied the petition (104 S. Ct. 3571), and on July 18, 1984, the Court of Appeals' mandate was formally issued, implementing the court's decision and requiring EPA to promulgate revisions to the stack height regulations within six months. The promulgation deadline was ultimately extended to June 27, 1985.

Revisions to the stack height regulations were proposed on November 9, 1984 (49 FR 44878), and finalized on July 8, 1985 (50 FR 27892). The revisions redefine a number of specific terms including "excessive concentration", "dispersion technique", "nearby" and modified some of the bases for determining good engineering practice (GEP) stack height. Pursuant to section 406(d)(2) of the CAA, all States were required to (1) Review and revise, as necessary, their SIPs to include provisions that limit stack height credits and dispersion techniques in accordance with the revised regulations and (2) review all existing emission limitations to determine whether any of these limitations have been affected by stack height credits above GEP or any other dispersion techniques. For any limitations so affected, States were to prepare revised limitations consistent with their revised SIPs. All SIP revisions and revised emission limits were to be submitted to EPA within nine months of promulgation, as required by section 406 of the CAA.

On December 21, 1987, at 52 FR 48285 the EPA proposed approval of OAPCR 1.4.2(b). The EPA's stack height regulations were challenged in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). On January 22, 1988, the U.S. Court of Appeals for the D.C. Circuit issued its decision affirming the regulations in large part, but remanding three provisions to the EPA for reconsideration. These are:

1. Grandfathering pre-October 11, 1983, within formula stack height increases from demonstration requirements (40 CFR 51.100(kk)(2));

2. Dispersion credit for sources originally designed and constructed with merged or multiflue stacks (40 CFR 51.100(hh)(2)(ii)(A)); and

3. Grandfathering pre-1979 use of the refined H+1.5L formula (40 CFR 51.100(ii)(2)).

Although the EPA generally approves State's stack height rules on the grounds that they satisfy 40 CFR part 51, the EPA also provides notice that this action may be subject to modification when the EPA completes rulemaking to respond to the decision in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). If the EPA's response to the NRDC remand modifies the July 8, 1985, regulations, the EPA will notify the State of Oklahoma that its rule must be changed to comport with the EPA's modified requirements. This may result in revised emission limitation or may affect other actions taken by Oklahoma and source owners or operators.

As discussed in the EPA's proposed approval of OAPCR 1.4.2(b), OAPCR 1.4 is the State's regulation supporting its permitting and new source review program. Under this program, Oklahoma will be issuing permits and establishing emission limitations that may be affected by the court-ordered reconsideration of the stack height regulations promulgated on July 8, 1985 (50 FR 27892). For this reason, the EPA has required that the State include the following caveat in all potentially affected permit approvals until the EPA completes its reconsideration of remanded portions of the regulations and promulgates any necessary revisions:

> In approving this permit, the OSDH has determined that the application complies with the applicable provisions of the stack regulations as revised by the EPA on July 8, 1985 (50 FR 27892). Portions of the regulations have been remanded by a panel of the U.S. Court of Appeals for the D.C. Circuit in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). Consequently this permit may be subject to modification if and when the EPA revises the regulations in response to the court decision. This may result in revised emission limitations or may affect other actions taken by the source owners or operators.

Oklahoma has made an enforceable commitment to include this caveat in all affected permits by letter dated July 8, 1988. This commitment is being incorporated into the code of Federal Regulations for the State of Oklahoma as part of today's approval action.

Plan Review

On June 9, 1986, the EPA received the State's revised Regulation 1.4.2(b) "Stack Height Limitation". The EPA reviewed the revision and developed an Evaluation Report. This report is available for inspection by interested parties during normal business hours at the offices listed in the addresses section of this notice. OAPCR 1.4 is the State's permitting and new source review regulation. OAPCR 1.4.2(b) is a portion of OAPCR 1.4 and therefore will apply to all new or modified sources as required by 40 CFR 51.164. All existing stacks in the State have been reviewed and the results were published in a separate notice on April 10, 1989, at 54 FR 14221 to satisfy the requirements of 40 CFR 51.118(a).

As discussed in the EPA's proposed approval of OAPCR 1.4.2(b) the State was required to correct two deficiencies identified by the EPA. There are: (1) Adopt a definition of "Emission limitation and emission standard" that is consistent with the Federal definition at 40 CFR 51.100(z); and (2) Correct the definition of "Dispersion technique" to prohibit manipulation of source process parameters and stack parameters to increase final exhaust plume rise.

On May 19, 1987, and March 1, 1988, the Oklahoma Air Quality Council adopted revisions to OAPCR 1.4.2(b) that included the definition of "Emission limitation and emission standard" that is identical to the Federal definition. The revised regulation also contained new language in the definition of "Dispersion technique" that prohibits manipulation of source and stack parameters to increase final exhaust plume rise. Section 1.4.2(e) "Public Review" was also amended to require that any fluid modeling study would be available for review 30 days prior to permit issuance.

Final Action

The EPA is today approving OAPCR 1.4.2.(b) "Stack Height Limitation" submitted on April 30, 1986, and the revisions to OAPCR 1.4.2.(b) "Stack Height Limitation" and OAPCR 1.4.2(e) "Public review".

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

This action has been classified as a table 3 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989, (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived tables 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from date of publication). This action may not be challenged later in proceedings to enforce its requirements (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

Authority: 42 U.S.C. 7401–7642.

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

Dated: July 12, 1990.

Robert E. Layton Jr.,

Regional Administrator.

40 CFR part 52, subpart LL, is amended as follows:

PART 52—[AMENDED]

Subpart LL—Oklahoma

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1920 is amended by adding paragraph (c)(34) to read as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *

(34) Oklahoma Air Pollution Control Regulation 1.4.2(b) "Stack Height Limitation" and amendments to OAPCR 1.4.2(e) "Public Review" as adopted on May 8, 1986, and submitted by the Governor on April 30, 1986, to meet the requirements of the Federal stack height regulations.

(i) Incorporation by Reference

(A) Oklahoma Air Pollution Control Regulation (OAPCR) 1.4.2(b) "Stack Height Limitation" as adopted on May 8, 1986, and amendments to OAPCR 1.4.2(b) section 1.4.2(b)(1)(G) as adopted on July 9, 1987, and effective August 10, 1987. In addition, amendments to OAPCR 1.4.2(b) section 1.4.2(b)(1)(C); and amendments to OAPCR 1.4.2(e) "Public Review" section 1.4.2(e)(1)(A) as adopted March 23, 1989, effective June 11, 1989, by the Oklahoma Board of Health.

(ii) Additional Material

(A) Commitment letter dated July 8, 1988, from the Director of the Permits and Enforcement Division of the Oklahoma Air Quality Service, Oklahoma State Department of Health.

[FR Doc. 90–19571 Filed 8–17–90; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 416, 483, 488 and 493

[HSQ-146-CN]

RIN 0938-AB96

Medicare, Medicaid and CLIA Programs; Revisions of the Laboratory Regulations for the Medicare, Medicaid, and Clinical Laboratories Improvement Act of 1967 Programs; Correction

AGENCY: Health Care Financing Administration, HHS.

ACTION: Final rule; Correction notice.

SUMMARY: This document makes some technical corrections to parts 405, 416, 483 and 493, as amended or added, as applicable, by our final rule on March 14, 1990, 55 FR 9538, which generally is effective September 10, 1990. In addition to correcting a number of typographical errors, we are correcting 42 CFR 405.2163, Condition: Minimal service requirements for a renal dialysis facility or renal dialysis center, to restore current text.

EFFECTIVE DATES: These corrections are effective September 10, 1990 except as noted below. To coincide with the effective date of the final rule, corrections to § 483.75 are effective October 1, 1990 and corrections to part 493, subpart H are effective January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Julie Brown, (301) 966–4669.

SUPPLEMENTARY INFORMATION: .

On March 14, 1990, in FR Doc. 90–5765, we published revisions to a number of parts in title 42 and added a new part 493. Corrections were published April 17, 1990, 55 FR 14378. In the final rule, there were a number of typographical errors and one inadvertent revision.

A. Section 405.2163: At the time we were proceeding toward publication to make final our regulations implementing the Clinical Laboratories Improvement Act of 1967 (CLIA '67) (HSQ–146–FC), we were also preparing a document proposing rules to implement the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88) (HSQ–176–P, May 21, 1990, 55 FR 20896). We inadvertently substituted the language for 42 CFR 405.2163 that was intended for the CLIA '88 proposed rule into the CLIA '67 final rule and the inadvertent transposition was not identified before publication. Consequently, we are restoring the paragraph to read as it did before it was revised on March 14, 1990.

On page 9575, col 1, § 405.2163, paragraph (b) is correctly revised to read as follows:

§ 405.2163 Condition: Minimal service requirements for a renal dialysis facility or renal dialysis center.

* * * * *

(b) *Standard: Laboratory services.* The dialysis facility makes available laboratory services (other than the specialty of tissue pathology and histocompatibility testing), to meet the needs of the ESRD patient. Laboratory services are performed either by a Medicare-approved hospital or by a qualified Medicare-approved independent laboratory, except that hematocrit and clotting time, which the facility uses to monitor its patients' fluids incident to each dialysis treatment, may be performed by the dialysis facility's staff, who are qualified by education and experience to perform such duties, under the direction of a physician.

B. The other changes are:

1a. Page 9574, col. 2, authority citation to Part 405, Subpart K, paragraph 2.a., line 3: "13951" should read "1395".

§ 405.1128 [Corrected]

b. Col. 3, § 405.1128(b)—the cross references should read as follows:

i. "§ 493.301 through 493.315" should read "§§ 493.1271 through 493.1285";

ii. "§ 493.305" should read "§ 493.1275";

iii. "§ 493.307" should read "§ 493.1277";

iv. "§ 493.309" should read "§ 493.1279";

v. "§ 493.315" should read "§ 493.1285".

§ 416.49 [Corrected]

2. Page 9575, col. 2, § 416.49, last line, remove the period at the end of the line and add in its place, ", except for urinalyses, hemoglobins and hematocrits performed within a few days before, or on, the day of the surgery." This restores language inadvertently deleted from the proposed revision.

§ 483.75 [Corrected]

3a. Page 9576, col. 1, § 483.75(1)(ii), line 2—replace the period after "chapter" with a semicolon.

§ 483.460 [Corrected]

b. Col. 1, § 483.460, in the heading the section number § 483.60 should read "§ 483.460".

§ 488.52 [Corrected]

c. Col. 2, § 488.52(a), line 5—delete quotation mark.

d. Col. 3, Part 493, Table of contents, line 19—replace the semicolon after "Condition" with a colon.

§ 493.2 [Corrected]

4. Page 9577, col. 3, § 493.2, definition of *Independent laboratory*, line 3, "texts" should read "tests".

§ 493.825 [Corrected]

5. Page 9579, col. 2, § 493.825(a), line 1—change "as" to "an".

§ 493.847 [Corrected]

6. Page 9581, col. 3, § 493.847(a), line 1—insert "a" before "score".

§ 493.861 [Corrected]

7. Page 9583, col. 1, § 493.861(d), lines 1 and 2—remove "analyte performance or"; there are no analytes in unexpected antibody detection.

§ 493.911 [Corrected]

8. Page 9585, col. 1, § 493.911(b)(2), line 4—"overtime" should be two words; i.e., "over time".

§ 493.915 [Corrected]

9a. Page 9587, col. 1, § 493.915(c)(2), line 10—"plust" should read "plus".

§ 493.917 [Corrected]

9b. Col. 3, § 493.917(c)(4) line 3—"absence or" should read "absence of".

§ 493.927 [Corrected]

10a. Page 9589, col. 1, § 493.927(c)(2), chart—"Complement C3" through "Infectious mononucleosis" should have the same margin as "Anti-Human" and "Rheumatoid arthritis" so that they do not appear to be categories of "Immunodificiency virus"; the leader after "Anti-Human" should be deleted; and "Immunodeficiency virus" should be indented two spaces as it is part of the category starting "Anti-Human".

§ 493.931 [Corrected]

b. Col. 2, § 493.931(b), line 8 under the heading *"Analyte or test procedure"*—"Blood gas pH, pO_2, PCO_2" should read: "Blood gas pH", "Blood gas PO_2", "Blood gas PCO_2".

§ 493.933 [Corrected]

11. Page 9590, col. 2, § 493.933(c)(2), line 11—delete the hyphen after "(SDs)".

§ 493.937 [Corrected]

12. Page 9591, col. 1, § 493.937(c)(2), line 1—replace "chemistry" with "toxicology," so that the line reads "(2) for quantitative toxicology tests or".

§ 493.945 [Corrected]

13a. Page 9592, col. 3, § 493.945(b)(2)(ii), line 5—replace "of" with "or".

§ 493.945 [Corrected]

b. § 493.945(b)(2)(ii)(B), chart, lines 2 and 3, left hand column for entry B, should read "Normal/Negative. Infection. Reactive and Reparative Changes."

§ 493.958 [Corrected]

14a. Page 9593, col. 2, § 493.958(d)(3)(ii)(A)(1), line 32,—insert a semicolon after "woman".

§ 493.958 [Corrected]

b. § 493.958(d)(3)(ii)(B)(3), line 41—"(3)" should read "(*3*)".

§ 493.958 [Corrected]

c. § 493.958(d)(3)(iv), line 47—"(iv)" should read "(iii)".

§ 493.959 [Corrected]

d. Col. 2, § 493.959(a)(3), line 4—delete second semicolon (after "and").

§ 493.959 [Corrected]

e. Col. 3, § 493.959(d), line 6—replace the "(c)" with "(d)".

§ 493.1215 [Corrected]

15a. Page 9596, col. 1, § 493.1215, line 8—replace the comma following "use" with a semicolon.

§ 493.1217 [Corrected]

b. Col. 2, § 493.1217(a)(1)(i), line 5—"reclibrate" should read "recalibrate".

§ 493.1217 [Corrected]

c. Col. 2, § 493.1217(a)(4), 12 lines from bottom of the page—capitalize the first word, "For".

§ 493.1217 [Corrected]

d. Col. 3, § 493.1217(g), lines 5 and 6—delete the ")" behind "systems" in line 6 and insert ")" to follow "substrates" in line 5; i.e., lines 5 and 6 will read "substrates) and antigen detection systems when prepared or opened for".

§ 493.1219 [Corrected]

16a. Page 9597, col. 2, § 493.1219(c)(1), line 3—replace the colon with a semicolon.

§ 493.1223 [Corrected]

b. Col. 2, § 493.1223, line 14—insert ")" after "(CLIA".

§ 493.1229 [Corrected]

c. Col. 3, § 493.1229(a), line 3—"acide-fast" should read "acid-fast."

§ 493.1257 [Corrected]

17a. Page 9599, col. 2, § 493.1257(b)(1), lines 12 and 13—"of the unevaluated slides may be examined;" should read "of the slides examined may be unevaluated;"

§ 493.1257 [Corrected]

b. Col. 3, § 493.1257(c)(3), lines 8 and 9, should read, "feedback on the malignant or premalignant cases as defined in paragraph". The cited definition applies only to premalignant cases.

§ 493.1257 [Corrected]

c. Col. 3, § 493.1257(c)(4)(i), line 6—"subpart" should read "part".

§ 493.1257 [Corrected]

d. Col. 3, § 493.1257(d)(1)(i), line 3, should read, "negative for malignant or premalignant."

§ 493.1257 [Corrected]

e. Col. 3, § 493.1257(d)(1)(ii), line 3, should read, "malignant or premalignant conditions as".

§ 493.1257 [Corrected]

18a. page 9600, col. 1, § 493.1257(d)(2), line 4, should read, "malignant and premalignant (as defined".

§ 493.1257 [Corrected]

b. Col. 1, § 493.1257(d)(3), line 6, should read, "a current malignant or premalignant (as ".

§ 493.1257 [Corrected]

c. Col. 1, § 493.1257(d)(4), line 12, should read, "malignant or premalignant as defined in", and line 16 should read, "compare with malignant or premalignant".

§ 493.1257 [Corrected]

d. Col. 2, § 493.1257(h), line 2, should read, "malignant and premalignant as defined".

§ 493.1257 [Corrected]

e. Col. 2, § 493.1257(i), line 3—place a comma after "part".

§ 493.1269 [Corrected]

19. Page 9601, col. 3, § 493.1269(b), line 5—"testing" should read "tested".

§ 493.1279 [Corrected]

20. Page 9602, col. 2, § 493.1279, line 2—delete the period after "osteopathy", and add "meeting the qualifications in subpart L for technical supervision in immunohematology, transfusion services." This was inadvertently deleted from the proposed revision.

§ 493.1415 [Corrected]

21. Page 9603, col. 3, § 493.1415(b)(3), line 6—"possesses" should read "possess".

§ 493.1417 [Corrected]

22. Page 9604, col. 2, § 493.1417(b)(3), line 4—"§ 493.1417" should read "§ 493.1427".

§ 493.1421 [Corrected]

23a. Page 9605, col. 1, § 493.1421(g)(3)(iii), line 1.—"dermatology" should read "dermatopathology".

§ 493.1421 [Corrected]

b. Col. 3, § 493.1421(m), line 11—replace the period after "Rh" with a subscript $_o$; i.e., "Rh_o".

§ 493.1421 [Corrected]

c. Col. 3, § 493.1421(m), line 13—"(1)(2)" should read "(l)(2)".

§ 493.1433 [Corrected]

24. Page 9606, col. 3, § 493.1433(b)(1), line 3—insert "college or" before "university".

§ 493.1433 [Corrected]

25. Page 9607, col. 1, § 493.1433(b)(4)(i)(B), line 1 should read "(B) At least 12 semester hours were in".

§ 493.1501 [Corrected]

26a. Page 9608, col. 1, § 493.1501, line 7—insert "and" after "results;".

§ 493.1501 [Corrected]

b. Col. 2, § 493.1501(g), line 1—insert "*Standard*" after "(g)".

(Catalog of Federal Domestic Assistance Programs No. 13.714—Medical Assistance, No. 13.773, Medicare—Hospital Insurance Program; No. 123.774—Medicare—Supplementary Medical Insurance Program)

Dated: August 3, 1990.

Neil J. Stillman,

Deputy Assistant Secretary for Information and Resource Management.

[FR Doc. 90-19538 Filed 8-17-90; 8:45 am]

BILLING CODE 4120-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[GEN Docket No. 87-389; FCC 90-260]

Operation of Radio Frequency Devices Without a License

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for recordkeeping.

SUMMARY: The Commission amends its regulations adopted recently in the *First Report and Order* in GEN Docket No. 37-389, 54 FR 17710, April 25, 1989, concerning emission measurement requirements for perimeter protection systems operating in the 40.66–40.70 MHz band. This action is taken in response to a petition for reconsideration filed by Senstar Corporation. The objective of this action is to avoid any adverse impact that the new part 15 regulations might have on perimeter protection systems operating in the 40.66–40.70 MHz band under the former rules, particularly as there has been no history of interference from these devices.

EFFECTIVE DATE: Changes to the regulations are effective August 20, 1990.

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

FOR FURTHER INFORMATION CONTACT: Karen Rackley, Office of Engineering and Technology, (202) 653-7316.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum, Opinion and Order* in GEN Docket No. 87-389, FCC 90-260, adopted July 9, 1990, and released August 15, 1990.

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

Summary of the Memorandum, Opinion and Order

1. In the First Report and Order in this proceeding, the Commission adopted a comprehensive revision of part 15 of its rules governing the operation of radio frequency devices without an individual license. The objective of this action was to encourage more effective use of the radio frequency sprectrum while providing additional technical and operational flexibility in the design, manufacture and use of non-licensed devices.

2. As part of this action, the standards for measuring emissions from perimeter protection systems operating in the 40.66–40.77 MHz band were modified to require the use of a CISPR quasi-peak detector, which provides a better indication of the interference potential of a device than the previously-specified average detector. Because CISPR quasi-peak measurements give higher readings for devices that employ pulsed emissions, the Commission was concerned that some devices permitted under the former rules would no longer be compliant. Accordingly, the Commission increased the emission limit 6 dB to compensate for the effect of the change in measurement procedure.

3. In its petition, Senstar, a manufacturer of perimeter protection systems, maintains that the 6 dB increase in the emission limit is insufficient to offset the higher quasi-peak readings. Senstar is concerned that one of its existing product lines will not comply with the emission limit under the new rules and will have to be discontinued. To correct this situation, Senstar proposed three possible remedies: increase the emission limit further; revert to the original average measurement methodology with the new higher emission limit; or, provide a ten-year period to comply with the new rules.

4. An opposition was filed objecting to any increase in the emission limit for perimeter protection systems.

5. The Commission remains concerned that the potential for interference to authorized services would increase if the limit were to be further increase relaxed. Senstar's requests to further the limit are therefore denied.

6. To avoid any adverse impact of the new rules on perimeter protection systems, the Commission is instead adopting a modified version of Senstar's request for a ten-year grandfathering period by amending the rules to permit measurements using either an average detector with the former emission limit or a quasi-peak detector with the corresponding new limit. In addition, where measurements are made with an average detector, a 20 dB peak-to-average limit on emissions from the system will be imposed. This provides Senstar the relief it seeks and at the same time controls the interference potential of perimeter protection systems. We see no need to limit this new policy to a ten-year period. As an editorial matter, the former limit has been respecified in terms of a 3 meters distance rather than 30 meters for consistency with the format of other part 15 requirements; however, measurements may be made at a distance up to 30 meters to avoid near-field measurement problems.

7. In accordance with the above discussion and pursuant to the authority contained in sections 4(i), 301, 302, and 303 of the Communications Act of 1934, as amended, *it is ordered* That the Petition for Reconsideration filed by Senstar Corporation is granted to the extent herein and in all other respects is denied. In addition, it is ordered that part 15 of the Commission's rules and regulations is amended as set forth below. These rules and regulations are effective upon the date of their

publication in the **Federal Register**. In accordance with 5 U.S.C. 553(d), publication of the amended regulations in the **Federal Register** at least 30 days before the effective date is not required since the changes to the regulations relieve existing restrictions.

List of Subjects in 47 CFR Part 15

Communications equipment, Electronic products, Measurement standards.

Rule Changes

Title 47 of the Code of Federal Regulations, part 15 is amended as follows:

PART 15—[AMENDED]

1. The authority citation for part 15 continues to read as follows:

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

2. Section 15.229 is amended by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), respectively, and by adding a new paragraph (b), to read as follows:

§ 15.229 Operation within the band 40.66–40.70 MHz.

* * * * *

(b) As an alternative to the limit in paragraph (a) of this section, perimeter protection systems may demonstrate compliance with the following: the field strength of any emissions within this band shall not exceed 500 microvolts/meter at 3 meters, as determined using measurement instrumentations employing an average detector. The provisions in § 15.35 for limiting peak emissions apply where compliance of these devices is demonstrated under this alternative emission limit.

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–19546 Filed 8–17–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–370; RM–6842]

Radio Broadcasting Services; Wadesboro, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Red Penny Broadcasting, substitutes Channel 228C3 for Channel 228A at Wadesboro, North Carolina, and modifies its construction permit for Station WRPL to specify operation on the higher powered channel. *See* 54 FR 37137, published September 7, 1989. Channel 228C3 can be allotted to Wadesboro in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.9 kilometers (3.1 miles) northeast. The coordinates for this allotment are North Latitude 34–59–57 and West Longitude 80–02–34. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 1, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–370, adopted August 1, 1990, and released August 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under North Carolina is amended by removing Channel 228A and adding Channel 228C3 at Wadesboro.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–19547 Filed 8–17–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR PART 73

[MM Docket No. 89–425; RM–6829]

Radio Broadcasting Services; Rome, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Briar Creek Broadcasting Corp., substitutes Channel 249C3 for Channel 249A at Rome, Georgia, and modifies its license for Station WKCX(FM) to specify operation on the higher powered channel. *See* 54 FR 41127, October 5, 1989. Channel 249C3 can be allotted to Rome, Georgia, in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.5 kilometers (8.4 miles) northeast to avoid a short-spacing to Station WKLD, Channel 249A, Oneonta, Alabama. The coordinates for this allotment are North Latitude 34–20–00 and West Longitude 85–03–00. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–425, adopted August 1, 1990, and released August 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia is amended by removing Channel 249A and adding Channel 249C3 at Rome.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–19548 Filed 8–17–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–442; RM–6837]

Radio Broadcasting Services; Roanoke, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 272C3 for Channel 272A at Roanoke, Alabama, and modifies the Class A permit issued to Eagle's Nest, Inc. for Station WELR-FM, as requested, to specify operation on the higher powered channel, thereby providing that community with its first expanded coverage FM service. See 54 FR 42807, October 18, 1989. Coordinates for Channel 272C3 at Roanoke are 33-00-00 and 85-26-00. With this action, the proceeding is terminated.

EFFECTIVE DATE: October 1, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-442, adopted August 1, 1990, and released August 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Alabama, is amended for Roanoke, by removing Channel 272A and adding Channel 272C3.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-19554 Filed 8-17-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-446; RM-6834]

Radio Broadcasting Services; Trenton, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes channel 248C3 for Channel 249A at Trenton, Tennessee, and modifies the license of Station WLOT(FM) to specify operation on the higher powered channel, as requested by The Wireless Group, Inc., *See* 54 FR 42524, October 17, 1989. Action taken here provides Trenton and its surrounding area with expanded FM service. A site restriction of 10.9 kilometers (6.8 miles) north of the city is required. The coordinates are 36-04-30 and 85-56-00. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 1, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-446, adopted July 26, 1990, and released August 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Tennessee, by removing Channel 249A and adding Channel 248C3 at Trenton.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-19550 Filed 8-17-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-398; RM-6819]

Radio Broadcasting Services; Spring City, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 230C3 for Channel 230A at Spring City, Tennessee, and modifies the construction permit of Station WAYA(FM) to specify operation on the higher powered channel at the request of Walter E. Hopper III. *See* 54 FR 39210, September 25, 1989. The coordinates for Channel 230C3 at Spring City, Tennessee, are 35-33-06 and 84-42-09. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order MM Docket No. 89-398, adopted August 6, 1990, and released August 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3000, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Tennessee by removing channel 230A and adding Channel 230C3 at Spring City.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-19553 Filed 8-17-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-421; RM-6853]

Radio Broadcasting Services; Idalou, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 289A to Idalou, Texas, as the community's first local FM service, at the request of Express Communications. *See* 54 FR 41128, October 5, 1989. Channel 289A can be allotted to Idalou in compliance with the Commission's minimum distance without the imposition of a site restriction. The

coordinates for Channel 289A at Idalou are North Latitude 33–39–48 and West Longitude 101–40–42. With this action, this proceeding is terminated.

DATES: Effective October 1, 1990. The window period for filing applications will open on October 2, 1990, and close on November 1, 1990.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–421, adopted August 6, 1990, and released August 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Texas, by adding Idalou, Channel 289A.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–19551 Filed 8–17–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–341; RM–6775]

Radio Broadcasting Services; Warrenton, NC, and Alberta, VA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Warrenton Broadcasting Corporation, substitutes Channel 297C2 for Channel 297A at Warrenton, North Carolina, and modifies its construction permit for Station WVRS(FM) to specifiy operation on the higher powered channel. In addition, the Commission modifies the construction permit of Station WGNJ, Alberta, Virginia, to specify operation on Channel 276A in lieu of its present channel 299A. *See* 54 FR 33249, published August 14, 1989. Channel 297C2 can be allotted to Warrenton in compliance with the Commission's minimum distance separation requirements with a site restriction of 29.3 kilometers (18.2 miles) northeast to avoid a short-spacing to Station WFXC, Channel 296A, Durham, North Carolina, and to the pending application of Station WKZL, Channel 298C, Winston-Salem, North Carolina. Channel 276A can be allotted to Alberta in compliance with the Commission's minimum distance separation requirements and can be used at the transmitter site specified in Station WGNJ's construction permit. The coordinates for Channel 297C2 at Warrenton are North Latitude 36–34–11 and West Longitude 77–54–16. The coordinates for Channel 276A at Alberta are North Latitude 36–53–39 and West Longitude 77–53–36. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 1, 1990.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–341, adopted August 6, 1990, and released August 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the FM Table of Allotments under North Carolina is amended by removing Channel 297A and adding Channel 297C2 at Warrenton. Section 73.202(b), the FM Table of Allotments under Virginia is amended by removing Channel 299A and adding Channel 276A at Alberta.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–19552 Filed 8–17–90; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 91050–0019]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of prohibition of retention of groundfish.

SUMMARY: NOAA announces that, in the Eastern Regulatory Area of the Gulf of Alaska, fish in the "Other Rockfish" category are to be treated in the same manner as a prohibited species; consequently, NOAA prohibits further retention of "Other Rockfish" in this Regulatory Area. This action is necessary to prevent the total allowable catch (TAC) for "Other Rockfish" in the Eastern Regulatory Area from being exceeded before the end of the fishing year. The intent of this action is to promote optimum use of groundfish while conserving "Other Rockfish" stocks.

EFFECTIVE DATES: From 12 noon, Alaska local time (ALT), August 14, 1990, through midnight, ALT, December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, NMFS, 907–586–7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone in the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. Regulations implementing the FMP are at 50 CFR 611.92 and part 672. Section 672.20(a) of the regulations establishes an optimum yield (OY) range of 116,000–800,000 metric tons (mt) for all groundfish species in the Gulf of Alaska. Total allowable catches (TACs) for target species and species groups are specified annually within the OY range and are apportioned among the regulatory areas and districts.

The 1990 TAC specified for "Other Rockfish" in the Eastern Regulatory

Area is 5,700 mt (55 FR 3223, January 31, 1990). Under § 672.20(c)(3), when the Director, Alaska Region (Regional Director), determines that the share of "Other Rockfish" TAC assigned to any gear and for any area of district has been achieved prior to the end of a fishing year, the Secretary of Commerce (Secretary) will publish a notice in the **Federal Register**, requiring that "Other Rockfish" must be treated as a prohibited species under § 672.20(e) in all or part of that area or district for the remainder of that year.

Under § 672.20(c)(2), the Regional Director previously determined that 505 mt of "Other Rockfish" were required to provide bycatch for other groundfish species expected to be taken in the Eastern Regulatory Area during the remainder of the fishing year. Therefore, he established a directed fishing allowance of 5,195 mt and closed the directed fishery for "Other Rockfish" in that area (55 FR 27643, July 5, 1990). Since the closure, fewer metric tons of "Other Rockfish" were taken as bycatch in the remaining groundfish fishery than anticipated. Therefore, the Secretary rescinded the previous directed fishing closure for DAP "Other Rockfish" in the Eastern Regulatory Area of the Gulf of Alaska on August 3, 1990, (55 FR 32260, August 8, 1990) to assure optimum use of "Other Rockfish" in the Eastern Regulatory Area.

The Regional Director has determined that the amount of TAC of "Other Rockfish" has been reached. Therefore, he is issuing this notice under authority of § 672.20(c)(3) and is requiring "Other Rockfish" be treated as a prohibited species under § 672.20(e) by vessels fishing with all gear types in all of the Eastern Regulatory Area of the Gulf of Alaska, effective 12 noon, ALT, August 14, 1990, through midnight, December 31, 1990.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment on this notice or to delay its effective date. The TAC for "Other Rockfish" for vessels using all gear in the Eastern Regulatory Area in the Gulf of Alaska will be exceeded unless this notice takes effect immediately.

This action is taken under paragraphs 672.20 (c)(3) and (e) and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Recordkeeping and reporting requirements.

Authority: 16 U.S.C. 1801, *et seq.*

Dated: August 14, 1990.

Richard H. Shaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-19461 Filed 8-14-90; 3:48 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 161
Monday, August 20, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV-90-195PR]

Proposed Increase in 1990 Budget Expenditures Under the California Olive Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize an increase in expenditures for the California Olive Committee (committee) established under Marketing Order No. 932 for the 1990 fiscal year. The expenses would be increased from $2,067,940 to $2,073,440. The $5,500 increase is needed to cover the cost of upgrading the committee's office equipment. Funds to administer these programs are derived from assessments on handlers.

DATES: Comments must be received by August 30, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patrick Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone 202-475-3862.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Agreement and Marketing Order No. 932 (7 CFR Part 932) regulating the handling of olives grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (17 U.S.C. 601-647), hereinafter referred to as the Act.

This proposed rule has been reviewed by the Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule 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 seven handlers of California olives regulated under this marketing order each season, and approximately 1,390 olive producers in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those annual receipts are less than $3,500,000. Most, but not all, of the olive producers and none of the olive handlers may be classified as small entities.

The California olive marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable olives received by regulated handlers during the crop year. The fiscal year covers the period January 1 through December 31, and the crop year covers the period August 1 through July 31. An annual budget of expenses is prepared by the committee and submitted to the Department for approval. The members of the committee are olive producers and handlers. They are familiar with the committee's needs and with the costs for goods, services, and personnel in their local area, and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing the anticipated expenses by expected olive receipts (in tons). Because that rate is applied to actual receipts, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses.

A final rule establishing expenses in the amount of $2,067,940 for the committee for the fiscal year ending December 31, 1990, was published in the **Federal Register** on February 8, 1990 (55 FR 4398). That action also fixed an assessment rate of $20.68 per ton of assessable olives received by handlers under M.O. 932 during the 1990-91 crop year.

At its July 19, 1990, meeting, the committee voted unanimously to increase its budget of expenses from $2,067,940 to $2,073,440.The proposed $5,500 increase is needed to cover the cost of upgrading the committee's office equipment. No change in the assessment rate was recommended. Adequate funds are available to cover the increase in expenses proposed by this action.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of 10 days is appropriate because the budget increase approval should be expedited. The committee needs to have sufficient funds to pay the additional expenses for office equipment as soon as possible.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 932 be amended as follows:

PART 932—[AMENDED]

1. The authority citation for 7 CFR part 932 continues to read as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 932.224 is amended as follows:

§ 932.224 [Amended]

Section 932.224 is amended by changing "$2,067,940" to "$2,073,440".

Dated: August 14, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–19468 Filed 8–17–90; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1139

[Docket No. AO–309–A31; DA–90–021]

Milk in the Great Basin Marketing Area; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposed amendments to the Great Basin milk order. Proponents of the proposed amendments are two cooperative associations and a producer-handler. The proposals would permit a cooperative to pool a reserve supply unit, increase the amount of milk a producer-handler can receive from pool plants, lower the shipments of milk a cooperative must deliver to pool distributing plants to pool a manufacturing plant, and make serveral technical changes to the regulatory provisions of the order. Proponents contend that the proposed changes are needed to maintain orderly marketing conditions.

DATES: The hearing will convene at 1 p.m. on August 27, 1990.

ADDRESSES: The hearing will be held at Red Lion Inn, 255 S. West Temple, Salt Lake City, Utah 84101, (801) 328–2000.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–2089.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at Red Lion Inn, 255 S. West Temple, Salt Lake City, Utah 84101, (801) 328–2000, beginning at 1:00 p.m., on August 27, 1990, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Great Basin marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR 900.12(d)) with respect to proposal No. 4.

Proposal No. 12, a proposal to change the limits on the amount of milk that a producer handler may purchase from pool plants and other order plants, raises the issue of whether a suspension of such limits that is currently in effect (from December 1989 through August 1990) should be continued pending amendatory action based on this proceeding.

Actions under the Federal milk order program are subject to the Regulatory Flexibility Act (Pub. L. 96–354). This Act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purposes of the Act, a dairy farm is a "small business" if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

Interested parties who wish to introduce exhibits should provide the Presiding Officer at the hearing with 4 copies of such exhibits for the Official Record. Also, it would be helpful if additional copies are available for the use of other participants at the hearing.

List of Subjects in 7 CFR Part 1139

Milk marketing orders.

The authority citation for 7 CFR part 1139 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Western Dairymen Cooperatives, Inc.

Proposal No. 1:

Revise § 1139.50 (d), (e) and (f) to read as follows:

§ 1139.50 Class prices and component prices.

* * * * *

(d) Skim milk price. The skim milk price per hundredweight shall be determined by subtracting from the basic formula price the differential value of 3.5 pounds of butterfat, to be computed by multiplying the Chicago butter price by 4.025.

(e) Butterfat price. The butterfat price per pound shall be computed by multiplying the Chicago butter price by 1.15, and adding an amount determined by dividing the skim milk price by 100.

(f) Handler protein prices. The handler protein price shall be computed by multiplying the total hundredweight of skim milk in producer milk received during the month by the skim milk price, and dividing the value so arrived at by the total pounds of protein in such milk.

Proposal No. 2:

Revise § 1139.53 to read as follows:

§ 1139.53 Announcement of class and component prices.

The market administrator shall announce publicly on or before:

(a) The 5th day of each month, the Class I price for the following month;

(b) The 15th day of each month, the Class II price for the following month;

(c) The 5th day after the end of each month, the Class III price, and the prices for skim milk and butterfat computed pursuant to § 1139.50 (d) and (e) respectively; and

(d) The 12th day after the end of each month the handler protein price computed pursuant to § 1139.50(f) for such month.

Proposal No. 3:

Revise § 1139.71 by revising the introductory text of paragraph (a) and adding a new paragraph (c) to read as follows;

§ 1139.7 Payments to the producer-settlement fund.

(a) Each handler whose obligation computed pursuant to paragraph (a)(1) of this section exceeds such handler's credit computed pursuant to paragraph (a)(2) hereof shall pay to the market administrator on or before the second day after the handler has been notified of its obligation, but no later than the 14th of the month, an amount equal thereto;

* * * * *

(c) payments due the market administrator pursuant to this section shall deem not to have been made until the money owed has been received at the market administrators office, or deposited into his bank account.

* * * * *

Proposal No. 4:

Add a § 1139.4 to read as follows:

§ 1139.4 Cooperative reserve supply unit.

Cooperative reserve supply unit shall be a designation given to a cooperative association that qualifies therefor pursuant to paragraphs (a) through (c) as follows:

(a) Meets each of the following requirements:

(1) Files an application with the market administrator for cooperative reserve supply unit status no less than 15 days prior to the first day of the month such status is requested.

(2) Qualifies as a handler pursuant to § 1139.9 (b) or (c) during the month and has been a handler of producer milk during each of the 12 previous months;

(3) Does not operate a milk plant located within the marketing area;

(4) Is qualified to receive payments for producer milk pursuant to § 1139.74(c);

(5) Has producer members, 75 percent of whom are producing milk on farms located within the marketing area, and/or within 75 miles of a pool distributing plant located within the marketing area;

(6) Has not entered into an agreement with another cooperative association to have its allowable diversions computed on a combined basis pursuant to § 1139.13(d); and

(7) Ships milk to pool distributing plants during the month in an amount equal to not less than 25 percent of its producer milk.

(b) The cooperative reserve supply unit supplies fluid milk products to pool distributing plants located within 100 miles of a majority of the cooperative's member producers in compliance with any instruction by the market administrator calling for a minimum level of shipments to a pool distributing plant(s) in accordance with the following provisions:

(1) The market administrator may require shipments of bulk fluid milk from a cooperative reserve supply unit whenever he determines, pursuant to an investigation made pursuant to subparagraph (2) hereof that indicates that additional milk supplies are necessary for Class I use at any pool distributing plant(s) to assure that the market can be adequately served.

(2) Determination that additional milk supplies are necessary at any pool distributing plant(s) may be made by the market administrator on the basis of facts obtained pursuant to the market administrator's investigation of the need therefor which he shall undertake either on his own initiative, or on the basis of a reasonable request by the operator of a pool distributing plant. If the administrator finds on the basis of such investigation that it is necessary to issue an instruction requiring shipments of milk, he shall issue a notice stating that a shipping instruction is being considered and inviting data, views and arguments with respect thereto, which will be considered in making his determination.

(c) Once qualification as a cooperative reserve supply unit has been granted a cooperative association pursuant to this section, such status shall continue until the association fails to meet all conditions prescribed therefor herein, or until it applies for termination thereof in which case such status shall be withdrawn on the first day of the month following the application.

(d) Failure of a cooperative association holding designation of reserve supply unit status to comply with any shipping requirements, or any action by the association which evades the intent thereof shall be responded by the market administrator to the Director of the Dairy Division, AMS, and he may suspend cooperative reserve supply unit status for the cooperative association for a period of not to exceed 12 months during which the association has qualified as a handler pursuant to § 1139.9 (b) and/or (c).

Proposal No. 5

Revise § 1139.76 by deleting all references therein to location adjustments.

Proposal No. 6

Amend § 1139.13(d)(1) to read as follows:

§ 1139.13 Producer milk.

* * * * *

(d) * * *

(1) The weighted average differential applicable to such milk shall be adjusted based on the location of the plant to which delivered, but it shall not be adjusted to a lower figure than is applicable at the location determined pursuant to § 1139.52 (a) or (b) of each respective producer's farm on which the milk was produced.

* * * * *

Proposal No. 7

Revise § 1139.43(b) to read as follwos:

§ 1139.43 General accounting and classification rules.

* * * * *

(b) Each handler qualified pursuant to § 1139.9 (a), (b) or (c) shall determine, keep records of, and include with reports filed with the market administrator pursuant to § 1139.90 complete information concerning the milk protein content of:

(1) All fluid milk products received, produced and on hand in inventories in any pool plant operated by such handler each month in the same manner as is required under this order for the butterfat contained in such fluid milk products.

(2) All fluid milk products utilized or disposed of each month in the same manner as is required under the order for the butterfat contained in such fluid milk products.

(3) Receipts of milk protein shall be balanced against milk protein in fluid milk products utilized or disposed of, by use of the data reported pursuant to paragraphs (1) and (2) hereof, and any overages shall be charged to the handler under § 1139.60(c) at the rate of the handler protein price, in lieu of any overage charges for skim milk, except that the handler shall be charged at the rate of the difference between the Class III and the Class I or Class II prices, respectively, for any overages of skim milk assigned to the latter 2 classes.

(4) The market administrator shall verify, or establish the accuracy of the data reported for milk protein pursuant hereto through audit of the books and records of the handler, and such other means as are necessary, and commonly employed in the verification of data concerning the receipts, dispositions, and utilization of butterfat.

* * * * *

Proposal No. 8

Revise § 1139.75(a) to read as follows:

§ 1139.75 Location and zone differentials for producers and nonpool milk.

(a) In making payments computed pursuant to § 1137.72 and in crediting handlers for payment due pursuant to § 1137.71(a)(2)(i) the market administrator shall adjust the weighted average differential price by an amount equal to the plant location adjustment specified in § 1139.52 applicable at the plant where the milk was first received from producers, except that the weighted average differential applicable at any location shall not be less than zero.

* * * * *

Proposal No. 9:

Revise the introductory text of § 1139.74(c) to read as follows:

§ 1139.74 Payments to producers and to cooperative associations.

(c) Payment shall be made in the manner set forth in subparagraphs (1) and (2) hereof to a cooperative association for milk received from such association pursuant to § 1139.13(a)(1) or from its member producers pursuant to § 1139.13(a)(1) and notifies the handler and the market administrator in writing of its desire to make such collection:

* * * * *

Proposal No. 10:

Revise § 1139.74(e) to read as follows:

§ 1139.74 Payments to producers and to cooperative associations.

* * * * *

(e) Each handler shall pay a cooperative association for milk received from a pool plant operated by such association or by transfer from such association on the basis of the classification thereof assigned by the market administrator as follows:

(1) On or before the 3rd day prior to the last day of the month for milk received during the first 15 days of the month at the Class III price for the previous month: and

(2) On or before the 16th day after the end of the month for milk received during the month at the following rates:

(i) The butterfat price per pound for the butterfat contained in such milk, plus:

(ii) The milk protein price per pound for the protein contained in such milk: plus

(iii) The difference between the Class I adjusted pursuant to § 1139.52 and Class III prices multiplied by the hundredweight of such milk classified as Class I; plus

(iv) The difference between the Class II and Class III prices multiplied by the hundredweight of such milk classified as Class II; plus

(v) The amount assessed by the market administrator with repsect to such milk pursuant to § 1139.85; less

(vi) Payments made pursuant to paragraph (1) hereof.

Proposal No. 11:

Revise § 1139.10(b)(1)(ii) to read as follows:

§ 1139.10 Producer-handler.

* * * * *

(b) * * *

(1) * * *

(ii) From pool plants by transfer or diversion, or from other order plants, in an amount that is not in excess of the larger of 10,000 pounds during the months of May through August; 5,000 pounds a month during September through April; or 5 percent of such person's Class I disposition during any month;

* * * * *

Proposed by Brown Dairy:

Proposal No. 12:

Revise § 1139.10(b)(1)(ii) to read as follows:

§ 1139.10 Producer-handler.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(ii) A producer-handler meets one of the following:

(a) From pool plants by transfer or diversion, or from other order plants, in an amount that is not in excess of the larger of 5,000 pounds or 5 percent of such person's Class I disposition during the month; or

(b) From pool plants by transfer or diversion, or from other order plants, with no monthly limitation as to amount; providing, that such producer-handler qualifies for this provision in an amount that is not in excess of the larger of 15,000 pounds or 5 percent of such person's Class I disposition during the three-month period of time beginning September 1st and ending November 30th.

* * * * *

Proposed by Magic Valley Milk Producers Association:

Proposal No. 13:

Revise § 1139.7(d) to read as follows:

§ 1139.7 Pool plant.

* * * * *

(d) Any manufacturing plant, or other plant not defined in paragraphs (a), (b) or (c) of this section, located within the marketing area at which milk is received from producers and which is owned and operated by a cooperative association or federation which delivers at least 35 percent of its producer milk (including that in fluid milk products transferred from its own plant pursuant to this paragraph that is not in excess of the amount in producer milk actually received at such plant) to pool distributing plants during the current month or the 12-month period ending with the current month, if the cooperative association or federation requests pool plant status for such plant in writing before the first day of any month for which such status is to be effective.

* * * * *

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 14:

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, W. Joe Albright, USDA/AMS/Dairy Division, Suite 230, 5501 N. 19th Avenue, Phoenix, AZ. 85015, or from the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Office of the Market Administrator, Great Basin Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on August 14, 1990.

Daniel Haley,

Administrator.

[FR Doc. 90-19409 Filed 8-17-90; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

RIN 3064-AA96

Assessments

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Board of Directors ("Board") of the Federal Deposit Insurance Corporation ("FDIC") is proposing to amend part 327 of its regulations, 12 CFR part 327 ("Assessments") in two ways. The FDIC proposes to increase the assessment to be paid by Bank Insurance Fund ("BIF") members during calendar year 1991, and to set forth the rate in part 327. The FDIC is also proposing to publish the rates to be paid by Savings Association Insurance Fund ("SAIF") members in 1991 and later years. This publication is for information purposes only: the SAIF rates are fixed by statute until 1995, and will not be affected by the proposed regulation.

DATES: Written comments must be received by the FDIC not later than September 19, 1990.

ADDRESSES: Written comments shall be addressed to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550-17th Street NW., Washington, DC 20429. Comments may be hand-delivered to room F-400, 1776 F Street NW., Washington, DC 20429, on business days between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Alvin E. Kitchen, Associate Director, Division of Accounting and Corporate Services, Federal Deposit Insurance Corporation, 550 Seventeenth Street NW., Washington, DC 20429, (202) 625-8344.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) are contained in the proposed rule. Consequently, no information has been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply to this proceeding. Although the Act requires a regulatory flexibility analysis when an agency publishes a rule, the term "rule" (as the Regulatory Flexibility Act defines that word) excludes "a rule of particular applicability relating to rates." *Id.* 601(2). The Act's requirements relating to an initial and final regulatory flexibility analysis (*id.* 603 & 604) are not applicable.

Moreover, the legislative history of the Regulatory Flexibility Act indicates that the Act's requirements are not meant to apply to proceedings of this kind. The Act's purpose is to make sure that agencies' rules do not impose disproportionate burdens on small businesses:

> Uniform regulations applicable to all entities without regard to size or capability of compliance have often had a disproportionate adverse effect on small concerns. The bill, therefore, is designed to encourage agencies to tailor their rules to the size and nature of those to be regulated whenever this is consistent with the underlying statute authorizing the rule.

(126 Cong. Rec. 21453 (1980) ("Description of Major Issues and Section-by-Section Analysis of Substitute for S. 299").)

The proposed rule does not impose a uniform cost or requirement on all BIF members regardless of size, however: rather it imposes a cost on each bank proportional to that bank's size. Moreover, the FDIC cannot "tailor" assessment rates to reflect the "size and nature" of banks. It is not possible to make such distinctions "consistent with the underlying statute authorizing the rule."

Finally, notwithstanding the absence of any requirement imposed by the Regulatory Flexibility Act, the Board has inquired into the effects that the proposed action would have on BIF members generally. The inquiry shows that the increase in the assessment rate could cause significant harm to only a small number of banks, and that these banks are distributed by size in roughly the same way as BIF members as a whole (see n. 3 below). Accordingly, the Board hereby certifies that the proposed rule, if adopted in final form, will not have a significant economic impact on a substantial number of small entities within the meaning of the Act.

The Proposed Rule

Section 7 of the Federal Deposit Insurance Act requires the FDIC to assess all insured depository institutions. 12 U.S.C. 1817. The FDIC's assessment rules are set forth in part 327 of title 12 of the Code of Federal Regulations ("Assessments").

I. Increase in the BIF Assessment Rate

On and after January 1, 1991, the assessment rate for BIF members is .15 percent per annum. The Board may set a higher rate if it determines:

—That the reserve ratio is expected to be less than 1.25 percent; and

—That the higher rate is appropriate to bring the reserve ratio up to 1.25 percent within a reasonable period of time.

But the rate may not be raised so long as the BIF "reserve ratio" (*i.e.*, the ratio of the value of the BIF to the estimated insured deposits held in BIF members) is increasing on a calendar year basis. Moreover, the rate may not increase by more than .075 percent in any one year; and in any case the assessment rate may not exceed .325 percent. *See id.* 1817(b)(1)(C).

The Board has examined the financial condition of the BIF—its operating expenses, its case resolution expenditures, and its investment income—and has reviewed the information currently available with respect to BIF-insured deposits. In summary, the BIF reserve ratio has declined from 1.1 percent at year-end 1987 to .80 percent at year-end 1988, and then to .70 percent at year-end 1989. These ratios are unacceptably low, and the trend is unmistakably downward: current data indicate that the BIF reserve ratio will continue to decline through the end of 1990.

Accordingly, the Board is proposing to increase the assessment rate for calendar year 1991. The statute already prescribes an increase of .03 percent; the amount of the discretionary increase will be 0.045 percent. The overall assessment rate for BIF members during 1991 will be .195 percent.

The Board considers that the discretionary increase is needed to bring the reserve ratio up to 1.25 percent within a reasonable time. The proposed rate increase would raise bank assessment revenues by roughly $1.1 billion. The turnaround in BIF's resources is not expected to be dramatic, when compared with the $5 billion in losses the BIF has suffered in 1988 and 1989. But it is a move in the right direction: if sustained, it would help to move the BIF reserve ratio to the statutory target of 1.25 percent within a reasonable time.

A. Impact on the Banking Industry

The FDIC staff estimates that increasing the 1991 assessment rate from 0.15 percent to 0.195 percent would have a minimal impact on current industry capital levels. The capitalization of BIF members at year-end 1989 amounted to $224.7 billion. An assessment rate increase of 0.045 percentage points would raise 1991 industry assessments by an estimated $1.1 billion, or less than ½ of 1 percent of year-end 1989 industry equity capital:

TABLE 1.—PROJECTED DEPOSIT GROWTH AND ASSESSMENT INCOME OF BIF MEMBERS [1]

	1991 (Projected)	1990 (Projected)	1989 (Actual)
Amounts in $ billions:			
Total domestic deposits	$2,665.8	$2,563.3	$2,464.7
Growth rate	4.0%	4.0%	5.7%
Insured deposits	2,025.8	1,947.9	1,873.0
Growth rate	4.0%	4.0%	7.0%
Assessment base	3,446.6	2,352.5	2,262.0
Growth rate	4.0%	4.0%	6.3%
Amounts in $ millions:			
Assessment rate	0.15%	0.12%	0.083%
Assessment income	3,669.9	2,823.0	1,884.2

[1] Table 1 uses the deposit figures available for 1989, which is the most recent full year for which such data are available. The deposit figures for 1990 and 1991 are projections: deposits are presumed to grow in 1990 and 1991 at a conservative rate of 4 percent per annum.

Table 1 portrays the effect of applying the 0.083 percent insurance assessment rate that actually prevailed in 1989, the 0.15 percent assessment rate that is scheduled for 1991, and of applying an additional 4.5 basis-point increase, to 0.195 percent.

Projected 1991

Proposed assessment increase: 0.045%.

Additional assessment income: $1,101.0.

Banks, like other businesses, can mitigate the impact on earnings and capitalization in a number of ways—*e.g.*, by lowering deposit interest rates, increasing service fees, or reducing dividends. If banks passed the full amount of the higher assessment on to depositors, rates paid on deposits would fall by 4.5 cents per $100 (*i.e.*, a reduction of $4.50 on a one-year time deposit of $10,000, disregarding compounding). In the same vein, the banking industry paid $14.6 billion in dividends on capital stock during 1989, or about 97 percent of net income for the period. A moderate decrease in dividends could absorb the increased assessment costs to the extent that the costs are not immediately passed on to depositors and other customers.

The impact on industry income for 1991 and beyond is harder to evaluate. Prior-year earnings have been determined by sharply fluctuating loan-loss provisions booked by the largest money-center banks. the additional assessment premiums would boost BIF members' noninterest overhead costs by approximately 0.96 percent. The additional expense amounts to 4.4 percent of 1989 pre-tax operating income of $25.1 billion.

The increased assessments comprise 7.3 percent of net income after taxes and nonrecurring extraordinary gains, which amounted to $15 billion for year-end 1989. However, the after-tax impact would be reduced to less than 5 percent of 1989 net income, when State and Federal income tax provisions—which amounted to $10.2 billion in 1989—are considered. For those banks that pass on the costs, the impact on pre-tax and after-tax earnings (and on dividends and capitalization) would be eliminated.

B. Impact on Earnings of Individual Banks [1]

The assessment rate stood at 0.083 percent during 1989. That year 1,669 BIF members (assets: $751 billion) reported full-year earnings losses totalling $11.1 billion.

If 1991's statutory assessment rate (0.15 percent) had been in effect, this group of banks would have lost an additional $294 million. Another 110 banks (assets: $69 billion) would have lost $13 million. In addition, 1,987 banks (assets: $500 billioin) would have had their earnings reduced by more than 10 percent.

If the assessment rate had included the proposed discretionary increase in 1989—*i.e.*, if the assessment rate had been .195 percent—only 69 more banks (assets: $11 billion) would have seen their net income reduced below zero by the additional insurance assessment: [2]

TABLE 2—BIF MEMBERS WITH EARNINGS LOSSES UNDER DIFFERENT ASSESSMENT SCENARIOS

[Based on 1989 earnings; amounts in $ millions]

	Actual 1989 rate (0.083%)	Statutory 1991 rate (0.15%)	Proposed 1991 rate (0.195%)
Number of banks with negative net income	1,669	1,779	1,848
Combined losses	$11,066	$11,373	$11,592

[1] This analysis of the impact of higher assessment rates on bank earnings makes several simplifying assumptions, which have the effect of overstating the likely consequences of a rate increase. Estimated assessment payments are based on end-of-year total domestic deposits, which enlarges the assessment base; in practice, actual assessments would be somewhat lower than the amounts used here. In addition, the effect of higher insurance premiums represents a "worst-case" scenario, in which no tax effect or cost pass-along is assumed, where all higher payments are carried directly through to lower net income.

[2] The affected banks are not disproportionately small ones. Forty of them have assets under $50 million (58%); thirteen have assets between $50 and $100 million (19%); fifteen have assets from $100 million to $1 billion (21.5%); no affected bank has assets between $1 billion and $5 billion; and one has assets exceeding $5 billion (1.5%).

By comparison, banks with assets under $50 million comprise 53.5% of all BIF members; $50-to-$100 million banks comprise 21.5%; $100 million-to-$1 billion banks comprise 21.5%; $1-to-$5 billion comprise 2.5%; and banks with assets over $5 billion comprise the remaining 1%.

TABLE 2—BIF MEMBERS WITH EARNINGS LOSSES UNDER DIFFERENT ASSESSMENT SCENARIOS—Continued

[Based on 1989 earnings; amounts in $ millions]

	Actual 1989 rate (0.083%)	Statutory 1991 rate (0.15%)	Proposed 1991 rate (0.195%)
Total assets	$750,882	$820,046	$832,326

The number of banks with earnings reductions of more than 10 percent would increase by 3,548 banks (assets: $562 billion). The average reduction in earnings among this group of banks attributable to the 4.5 basis-point increase in the assessment rate (from 0.15 percent to 0.195 percent) would have been approximately 15 percent.

The 1,669 banks reporting net losses in 1989 included 244 banks (assets: $131 billion) that had equity capital of less than 3 percent of assets at year-end 1989. If the assessment rate had been 0.15 percent, one additional thinly-capitalized bank would have been reported a net loss for the year, and 19 others would have had more than 10 percent of their net income absorbed by the additional assessment payments. Raising the assessment rate a further 4.5 basis points would have resulted in one additional under-capitalized unprofitable bank, and four other banks whose earnings would be reduced by more than 10 percent.

C. Impact on capital of individual banks [3]

At the end of 1989, there were 85 BIF-insured banks (assets: $18.5 billion) reporting negative equity capital.[4] The added expenses of a 0.15 percent assessment rate in 1989 would have exceeded the total equity capital of two more banks (assets: $18 million). For another 30 banks (assets: $8.7 billion), the higher insurance premiums would have represented more than 10 percent of their equity capital.

If the assessment rate in 1989 had been 0.195 percent, two more banks (assets: $173 billion) would have seen their equity capital eclipsed by the additional insurance fee. Another 20 banks (assets: $2.8 billion) would have had increased premiums equal to more than 10 percent of their equity capital.

[3] It is assumed that all increased deposit insurance costs are taken directly out of retained earnings; in practice, the impact on equity capital can be minimized by tax effects, cost pass-alongs, and lower dividened payments.

[4] Sixty-eight of these banks were no longer active as of August 3, 1990.

II. Publication of SAIF Assessment Rates

As an ancillary matter, the FDIC is also proposing to publish the statutorily-prescribed rate for SAIF members in part 327. The FDIC has no power to alter this rate for years prior to calendar year 1995. The publication of the SAIF assessment rate is for information purposes only.

III. Comment Period

The FDIC is publishing the proposed rule with a public comment period of thirty days.

List of Subjects in 12 CFR Part 327

Assessments, Bank deposit insurance, Banks, Banking, Financing Corporation, Savings associations.

For the reasons stated above, the Board of Directors of the Federal Deposit Insurance Corporation purposes to amend part 327 of title 12 of the Code of Federal Regulations as follows:

PART 327—[AMENDED]

1. The authority citation for part 327 continues to read as follows:

Authority: 12 U.S.C. 1441, 1441b, 1817–19.

2. Section 327.13 is amended by adding paragraph (c) to read as follows:

§ 327.13 Payment of assessment.

* * * * *

(c) *Assessment rate.* The annual assessment rate for each BIF member during calendar year 1991 shall be 0.195 percent.

3. Section 327.23 is amended by adding paragraph (d) to read as follows:

§ 327.23 Manner of payment.

* * * * *

(d) *Assessment rate.* The annual assessment rate for each SAIF member shall be:

(1) From January 1, 1991 through December 31, 1993, 0.23 percent;

(2) From January 1, 1994 through December 31, 1997, 0.18 percent; and

(3) On and after January 1, 1998, 0.15 percent.

By order of the Board of Directors.

Dated at Washington, DC, this 14th day of August, 1990.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 90–19540 Filed 8–17–90; 8:45 am]

BILLING CODE 6174-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 422

RIN 0960-AC67

Social Security Number Required for Receipt of Social Security Benefits

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

SUMMARY: In these proposed regulations, we are adding a new regulation (§ 404.469) to reflect the requirement that, in order to receive Social Security benefits, a person who becomes entitled to Social Security benefits on or after June 1, 1989, must either furnish satisfactory proof that he or she has a Social Security number or, if no number has been assigned, properly apply for one. This requirement is in section 205 (c)(2)(E) of the Social Security Act (the Act), which section was added to the Act by section 8009 of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647). In addition, we are amending § 422.104 to provide that in some cases we will assign a Social Security number to an alien if the alien needs a number in order to receive a federally-funded benefit, or for a Federal tax reporting purpose for which the Social Security Administration and the Internal Revenue Service agree that a number is needed.

DATES: Your comments will be considered if we receive them no later than October 19, 1990.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21235, or delivered to the Office of Regulations, Social Security

Administration, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Legal Assistant, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235 (301) 965–8471.

SUPPLEMENTARY INFORMATION: Under section 205(c)(2)(E) of the Act, the Secretary of Health and Human Services must require, as a condition for receipt of Social Security benefits, that an individual either furnish satisfactory proof of a Social Security number assigned to that individual or properly apply for a number if one has not been assigned to him or her. This provision was added to the Act by section 8009 of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. 100–647) and is effective for people who become entitled to Social Security benefits on or after June 1, 1989.

The primary purpose of section 205(c)(2)(E) is to enable the Social Security Administration (SSA) to use the individual's Social Security number to detect more readily any duplicate benefit payments, unreported or miscredited earnings, and entitlement to other benefits. See H.R. Rep. No. 1104, 100th Cong., 2d Sess. Vol. II, 260 (1988). Prior to the enactment of this provision, we merely requested dependents and survivors of an insured worker to state their Social Security numbers voluntarily when they applied for benefits on the worker's record. Now, a dependent or survivor whose entitlement begins on or after June 1, 1989, must either furnish satisfactory proof of his or her Social Security number or, if no number has been assigned, properly apply for one. This requirement is similar to the requirements of section 1137(a)(1) of the Act under which recipients of federally-funded benefits, e.g., Aid to Families with Dependent Children, Supplemental Security Income, and Veterans' Assistance benefits, are required to furnish their Social Security numbers.

We propose to add a new regulation, § 404.469, which will explain that we will not pay Social Security benefits to anyone whose entitlement began on or after June 1, 1989, and who either does not furnish satisfactory proof of his or her Social Security number or, if a number has not been assigned, does not properly apply for a number. As satisfactory proof, we will require that the individual furnish his or her Social Security number and other adequate identifying information, such as date and place of birth, mother's maiden name, and father's name, which we will use to verify through our records that the number furnished is the Social Security number which we assigned to the individual, or determine whether we assigned another number. If the individual cannot furnish a Social Security number, we will use the other identifying information to search our records for any Social Security number we assigned to him or her. If a Social Security number has not been assigned to the individual, we will ask him or her to apply for one.

We propose to revise § 422.104 to provide that an alien who does not have the evidence of alien status described in § 422.107(e) may nevertheless apply for and be assigned a Social Security number so that he or she will satisfy the requirement of proposed § 404.469 and similar requirements of other federally-funded benefit programs. Thus, an alien, either inside or outside the United States, who needs a Social Security number to receive Social Security benefits, may be assigned a number even through the evidence of alien status described in § 422.107(e) does not exist, if he or she otherwise meets the evidence requirements of § 422.107 for establishing age and identity. The proposed revision of § 422.104 will also provide that we will assign a Social Security number to an alien outside the United States who needs the number for a Federal tax reporting purpose for which SSA and the Internal Revenue Service agree that an individual needs a number.

In addition, we are amending § 404.401(d) to provide that the failure to furnish satisfactory proof of a Social Security number, or if no number has been assigned, failure to properly apply for one, is a nonpayment condition. Also, we are amending §§ 404.402 and 404.902 to include appropriate reference to § 404.469.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because it will result in negligible administrative costs or savings. It has no effect on the amount of benefit payments or existing operating procedures. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these proposed rules will not have a significant economic impact on a substantial number of small entities since these rules affect only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, The Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

These proposed rules impose no additional reporting and recordkeeping requirements subject to Officer of Management and Budget clearance.

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security-Disability Insurance; 13.803 Social Security-Retirement Insurance)

List of Subjects

20 CFR Part 404

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

20 CFR Part 422

Admnistrative practice and procedure; Freedom of Information; Organization and functions (government agencies; Social Security.

Dated: June 18, 1990.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: July 27, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set out in the preamble, we propose to amend subparts E and J of part 404 of 20 CFR chapter III and subpart B of part 422 of 20 CFR chapter III as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

1. The authority citation for subpart E is revised to read as follows:

Authority: Secs. 202, 203, 204(a) and (e), 205(a) and (c), 222(b), 223(e), 224, 227, and 1102 of the Social Security Act; 42 U.S.C. 402, 403, 404(a) and (e), 405(a), 422(b), 423(e), 424, 427, and 1302.

2. Section 404.401 is amended by revising paragraph (d) to read as follows:

§ 404.401 Deduction, reduction, and nonpayment of monthly benefits or lump-sum death payments.

* * * * *

(d) *Nonpayments.* Nonpayment of monthly benefits may be required because:

(1) The individual is an alien who has been outside the United States for more than 6 months (see § 404.460);

(2) The individual on whose earnings record entitlement is based has been deported (see § 404.464);

(3) The individual is engaged in substantial gainful activity while entitled to disability insurance benefits based on "statutory blindness" (see § 404.467); or

(4) The individual has not provided satisfactory proof that he or she has Social Security number or has not properly applied for a Social Security number (see § 404.469).

* * * * *

3. Section 404.402 is amended by revising paragraph (d)(1) to read as follows:

§ 404.402 Interrelationship of deductions, reductions, adjustments, and nonpayment of benefits.

* * * * *

(d) * * *

(1) Current nonpayments under §§ 404.460, 404.464, 404.465, 404.467, and 404.469;

* * * * *

4. A new § 404.469 is added to read as follows:

§ 404.469 Nonpayment of benefits where individual has not furnished or applied for a Social Security number.

No monthly benefits will be paid to an entitled individual unless he or she either furnishes to the Social Security Administration (SSA) satisfactory proof of his or her Social Security number, or, if the individual has not been assigned a number, he or she makes a proper application for a number (see § 422.103). An individual submits satisfactory proof of his or her Social Security number by furnishing to SSA the number and sufficient additional information that can be used to determine whether that Social Security number or another number has been assigned to the individual. Sufficient additional information may include the entitled individual's date and place of birth, mother's maiden name, and father's name. If the individual does not know his or her Social Security number, SSA will use this additional information to determine the Social Security number, if any, that it assigned to the individual. This rule applies to individuals who become entitled to benefits beginning on or after June 1, 1989.

5. The authority citation for subpart J continues to read as follows:

Authority: Secs. 201(j), 205(a), (b), and (d)–(h), 221(d), and 1102 of the Social Security Act; 42 U.S.C. 401(j), 405(a), (b), and (d)–(h), 421(d), and 1302; sec. 5 of Pub. L. 97–455, 96 Stat. 2500; sec. 6 of Pub. L. 98–460, 98 Stat. 1802.

6. Section 404.902 is amended by adding paragraph (u) to read as follows:

§ 404.902 Administrative actions that are initial determinations.

* * * * *

(u) Nonpayment of your benefits under § 404.469 because you have not furnished us satisfactory proof of your Social Security number, or, if a Social Security number has not been assigned to you, you have not filed a proper application for one.

PART 422—ORGANIZATIONS AND PROCEDURES

1. The authority citation for subpart B continues to read as follows:

Authority: Secs. 205 and 1102, Social Security Act (42 U.S.C. 405 and 1302).

2. Section 422.104 is revised to read as follows:

§ 422.104 To whom social security numbers are assigned.

(a) *Persons with evidence of age, identity, and U.S. citizenship or alien status.* A social security number may be assigned to an applicant who meets the evidence requirements in § 422.107, if the applicant is:

(1) A United States citizen;

(2) An alien lawfully admitted for permanent residence or under other authority of law permitting him or her to work in the United States (see § 422.105 regarding presumption of authority of nonimmigrant alien to work); or

(3) An alien who is legally in the United States but not under authority of law permitting him or her to engage in employment, but only for a nonwork purpose (see § 422.107(e) (1) and (2)).

(b) *Persons with other evidence of alien status.* A social security number may be assigned for a nonwork purpose to an alien who cannot provide the evidence of alien status required by § 422.107(e), if the evidence described in that section does not exist, if other evidence is provided, and if:

(1) The alien resides either in or outside the United States and a social security number is required by law as a condition of the alien's receiving a federally-funded benefit to which the alien has established entitlement; or

(2) The alien resides outside the United States and needs a social security number for a Federal tax reporting purpose for which SSA and the Internal Revenue Service have agreed that an individual needs a number.

(c) *Annotation for a nonwork purpose.* If SSA has assigned a social security number for a nonwork purpose under the provision of paragraph (b)(1) or (b)(2) of this section, SSA will annotate its record to show that the number has been assigned for a nonwork purpose. Additionally, the social security number card will be marked with a nonwork legend. If earnings are reported to SSA on a nonwork social security number which was assigned under a provision of this section, SSA will inform the Immigration and Naturalization Service of the reported earnings.

[FR Doc. 90–19460 Filed 8–17–90; 8:45 am]

BILLING CODE 4190–11–M

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20 CFR Part 416

[Regulation No. 16]

RIN 0960–AC42

Supplemental Security Income for the Aged, Blind, and Disabled

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

SUMMARY: We are proposing a change in the Supplemental Security Income (SSI) regulations to more clearly state our policy on the treatment of loans for income purposes and for purposes of determining the value of in-kind support and maintenance using the statutory one-third reduction in the Federal benefit rate or regulatory presumed maximum value rule.

DATES: To be sure that your comments are considered, we must receive them no later than October 19, 1990.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21235, or delivered to 3–B–1 Operations Buildings, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, 301–965–8470.

SUPPLEMENTARY INFORMATION: Under section 1612(a)(2)(A)(i) of the Social Security Act and § 416.1131 of current regulations, when an individual lives in another person's household and receives food and shelter, we count as income to that individual an amount equal to one-

third of his or her Federal benefit rate. In all other situations in which an individual receives in-kind support and maintenance, we count this income using the presumed maximum value rule in § 416.1140. The one-third reduction or the presumed maximum value is used in lieu of determining the exact dollar value of the in-kind support and maintenance received. However, if the individual pays at least a pro rata share of household expenses as determined under § 416.1133, the individual is not considered to have received in-kind support and maintenance in the form of food and shelter from anyone else in the household.

In the case of *Hickman* v. *Bowen*, 803 F.2d 1377 (5th Cir. 1986), the plaintiff lived in another person's household and alleged that she was loaned food and shelter (in-kind support and maintenance) and that she had agreed to repay the loan upon receipt of her first SSI benefit check. Section 416.1103(f) of the current regulations provides that money borrowed is not income for SSI purposes. Our policy has been that loans must be cash exchanges and, thus, the in-kind support and maintenance received by the plaintiff was considered income and, therefore, the one-third reduction rule applied. The court held, however, that the present regulation at § 416.1103(f) did not preclude a loan of in-kind support and maintenance. Because such a loan was not income according to the *Hickman* court, the one-third reduction rule would not be applicable under the facts of the case.

We are clarifying our regulations to eliminate the ambiguity identified by the *Hickman* court. We are proposing to clarify § 416.1103(f) to provide that only cash transactions are loans, that such cash loans are not income, and that credit arrangements to buy food and shelter are not the same as borrowing cash for purposes of determining whether a pro rata share of household expenses is paid. We do not recognize loans of in-kind support and maintenance in the form of food and shelter because to recognize such loans would undermine the statutory one-third reduction provision as well as the regulatory presumed maximum value rule and because of the impracticability of determining whether such arrangements are bona fide. We are also proposing to clarify § 416.1133(a) to provide that payment of a pro rata share of household expenses must be in cash and that such payment must be made no later than the end of the calendar month under consideration. By expressly providing this end-of-the-month cutoff we eliminate the possible misinterpretation that an individual can be loaned a pro rata share of household operating expenses in anticipation of payment in a later month. We believe the proposed changes to the regulations make clear our policy on the time allotted for payment of a pro rata share and make clear that such payment must be in cash. These proposed changes should preclude future questions and litigation on the meaning of our regulations in this area.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under the terms of Executive Order 12291, because no additional program or administrative costs are contemplated and threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

These proposed regulations impose no additional reporting or recordkeeping requirement requiring Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance program, Supplemental Security Income.

Dated: June 13, 1990.

Gwendolyn, S. King,

Commissioner of Social Security.

Approved: July 9, 1990.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 416 of chapter III of title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154, sec. 2639 of Pub. L. 98–369, 98 Stat. 1144.

2. Section 416.1103 is amended by revising paragraph (f) to read as follows:

§ 416.1103 What is not income.

* * * * *

(f) *Proceeds of a loan.* Cash you borrow or cash you receive as repayment of a loan is not income. However, interest you receive on cash you have lent is income. The term "loan" refers only to an exchange of cash. Buying on credit is treated as though you were borrowing cash. However, we do not treat credit arrangements to buy food and shelter as borrowing cash for purposes of determining whether you are paying a pro rata share of household operating expenses under § 416.1133(a).

* * * * *

3. Section 416.1133 is amended by revising paragraph (a) to read as follows:

§ 416.1133 What is a pro rata share of household operating expenses.

(a) *General.* If you pay your pro rata share toward monthly household operating expenses in cash and no later than the last day of the calendar month under consideration, you are living in your own household and are not receiving in-kind support and maintenance in the form of food and shelter from anyone else in the household. The one-third reduction, therefore, does not apply to you. If you are receiving food, clothing, or shelter from someone outside the household, we value it under the rule in § 416.1140.

* * * * *

[FR Doc. 90–19507 Filed 8–17–90; 8:45 am]

BILLING CODE 4190–11–M

Food and Drug Administration

21 CFR Part 101

[Docket No. 84N–0153]

RIN 0905–AB68

Food Labeling; Definitions of the Terms Cholesterol Free, Low Cholesterol, and Reduced Cholesterol; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Tentative final rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending until September 19, 1990, the period for public comments regarding the agency's tentative final rule to amend the food labeling regulations to define and to provide for the proper use of the terms

"cholesterol free," "low cholesterol," and "reduced cholesterol" in the labeling of foods and to provide for other truthful and nonmisleading statements about cholesterol content on food labeling. This extension of the comment period is in response to several written requests for additional time to submit public comments.

DATES: Written comments by September 19, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

FOR FURTHER INFORMATION CONTACT: Virginia L. Wilkening, Center for Food Safety and Applied Nutrition (HFF-204), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1561.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 19, 1990 (55 FR 29456), FDA published a tentative final rule to amend the food labeling regulations to define and provide for the proper use of the terms "cholesterol free," "low cholesterol," and "reduced cholesterol" and to provide for other truthful and nonmisleading statements about cholesterol content on food labeling.

In an earlier action, FDA proposed to allow the use of the terms 'cholesterol free" and "low cholesterol" without regard to the fat or saturated fatty acid content of the food (51 FR 42584; November 25, 1986). Comments received by FDA since publication of that 1986 proposal have convinced the agency that such a position would allow misleading claims in food labeling. After considering those comments, FDA issued the July 19, 1990, tentative final rule that proposed to permit "cholesterol free" and "low cholesterol" claims in labeling only when the food contains 5 grams (g) or less fat per serving and 20 percent or less fat on dry weight basis and contains 2 g or less saturated fatty acids per serving and 6 percent or less saturated fatty acids on a dry weight basis. The tentative final rule also proposed that any fatty rule that is subsequently issued based upon the tentative final rule would become effective 1 year following its publication. The agency requested that written comments regarding the tentative final rule be submitted by August 20, 1990.

FDA has received several requests for an extension of the comment period for the tentative final rule. Because of the number of requests for an extension of the comment period and because the agency wants to assure that public comment is received to the greatest extent possible, the agency has determined that extension of the comment period is appropriate. However, because the issues for which public comment is being solicited are limited in number and scope and because there is great public interest in this rulemaking, the agency has decided to extend the comment period only until September 19, 1990. Thus, the agency will allow an additional 30 days for comment on the specific levels of fat and saturated fatty acids that the agency has tentatively adopted as prerequisites for use of the "cholesterol free" and "low cholesterol" descriptors and on the effective date proposed in the tentative final rule. Therefore, the agency is extending the closing date for the submission of comments from August 20, 1990, to September 19, 1990.

Dated: August 14, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-19491 Filed 8-15-90; 10:19 am]

BILLING CODE 4160-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900-AE72

Schedule for Rating Disabilities—The Gynecological System

AGENCY: Department of Veterans Affairs.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department of Veterans Affairs (VA) is issuing an advance notice of proposed rulemaking (ANPRM) concerning that portion of the Schedule for Rating Disabilities which deals with disabilities of the gynecological system. This ANPRM is necessary because of a General Accounting Office (GAO) study and recommendation that the medical criteria in the rating schedule be reviewed and updated as necessary. The intended effect of this ANPRM is to solicit and obtain the comments and suggestions of various inerest groups and the general public on necessary additions, deletions and revisions of terminology and how best to proceed with a systematic review of the medical criteria used to evaluate disabilities of the gynecological system. Other body systems will be subsequenty scheduled for review until the medical criteria in the entire rating schedule have been analyzed and updated.

DATES: Written comments and submissions in reponse to this ANPRM must be received by VA on or before October 19, 1990.

ADDRESSES: Interested persons and organizations are invited to submit written comments and suggestions regarding this ANPRM to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420. All written submissions will be available for public inspection only in the Veterans Service Unit, room 132, at the above address and only between the hours of 8 a.m. and 430 p.m. Monday through Friday (except holidays) until October 29, 1990.

FOR FURTHER INFORMATION CONTACT: Phyliss Barber, Consultant, Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, (202) 233-3005.

SUPPLEMENTARY INFORMATION: In December 1988 the GAO published a report entitled *VETERANS' BENEFITS: Need to Update Medical Criteria Used in VA's Disability Rating Schedule* (GAO/HRD-89-28). After consulting numerous medical professionals and VA rating specialists GAO concluded that a comprehensive and systematic plan was needed for reviewing and updating VA's Schedule for Rating Disabilities (38 CFR Part 4). The medical professionals noted outdated terminology, ambiguous impairment classifications and the need to add a number of medical conditions not presently in the rating schedule. VA rating specialists noted that for some disorders they would prefer more medical criteria for distinguishing between various levels of severity and that inconsistent ratings may result when unlisted conditions had to be rated by analogy to other listed disorders. The GAO recommended that VA prepare a plan for a comprehensive review of the rating schedule and, based on the results, revise the medical criteria accordingly. It also recommended that VA implement a procedure for systematically reviewing the rating schedule to keep it updated. VA agreed to both recommendations, and this ANPRM is one step in a comprehensive rating schedule review plan which will ultimately be converted into a systematic, cyclical review process.

This ANPRM is the first stage in VA's consideration of what regulatory action to take, if any, with respect to revising and updating that portion of the rating schedule dealing with disabilities of the gynecological system (38 CFR 4.116).

Interested organizations and individuals are invited to submit comments and suggestions for revising

current medical criteria, adding additional disabilities and/or deleting certain rarely encountered disorders or transferring them to other sections of the rating schedule. Submissions may run the gamut from narrative discussions of individual rating criteria to wholesale format changes and substitute rating schedules. Where changes are suggested, we would also appreciate a recitation as to the scientific or medical authority for such changes. Early submissions will expedite the comment review process and are encouraged.

List of Subjects in 38 CFR Part 4

Handicapped, Pensions, Veterans.

Approved: July 11, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

[FR Doc. 90-19545 Filed 8-17-90; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-3822-9]

Standards of Performance for New Stationary Sources; Total Combustible Carbon Method for Determination of Energy Efficiency of Wood Heaters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The purpose of this rule is to add Appendix J, Total Combustible Carbon Method for Determination of Energy Efficiency of Wood Heaters, to 40 CFR part 60. Appendix J is being proposed to provide a method for deriving the overall energy efficiency of a wood heater in accordance with the manufacturer's discretionary authority contained in the wood heater labeling requirements of Subpart AAA of 40 CFR part 60.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed rule.

DATES: *Comments.* Comments must be received on or before November 5, 1990.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by September 11, 1990, a public hearing will be held October 4, 1990 beginning at 10 a.m. Persons interested in attending the hearing should call the contact mentioned under **ADDRESSES** to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by September 11, 1990.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Air Docket Section (LE-131), Attention: Docket Number A-89-14, U.S. Environmental Protection Agency, Room M-1500, 1st Floor, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Emission Measurement Laboratory Building, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify William Grimley, Emission Measurement Branch (MD-19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-1065.

Docket. Docket No. A-89-14, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Room M-1500, 1st Floor, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: William Grimley or Roger Shigehara, Emission Measurement Branch (MD-19), Technical Support Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-1065.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

Summary of Method

The proposed method is known in the wood heater research field as the total combustible carbon method, and a draft is described in the U.S. Department of Energy (DOE) report entitled "Technology for Efficiency Measurement of Woodburning and Other Solid Fuel Appliances," which was prepared under DOE grant number DE-AS05-83CE23858. This method is referred to as a stack loss measurement method, as opposed to room calorimetry, which is the normal reference method. The total combustible carbon method is being proposed in lieu of other stack loss measurement methods on the basis of consideration of accuracy of results, and cost. Room calorimetry was considered, but the minor potential gain in accuracy could not justify the considerable additional expense. Based on the results of the DOE funded study of stack loss methods, the total combustible carbon method provided the best balance between accuracy and cost.

Proposing more than one method for Appendix J was considered. While other stack loss methods with reasonably good accuracy potentials were identified in the DOE study, those methods are particularly sensitive to errors in fuel analysis and gas concentration measurements. These potential problems would adversely affect the credibility of any conversion factors that might be developed between methods in an attempt to place the efficiency measurements on a comparable basis, and the use of such conversion factors could mislead the consumer into believing that all reported efficiencies were equally precise. For these reasons, only the total combustible carbon method is being proposed.

II. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed test methods in accordance with section 3067(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Air Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Air Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

B. Docket

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

C. Office of Management and Budget Review

Executive Order 12291 Review. Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This

rulemaking is not major 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 costs or prices and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

D. Regulatory Flexibility Act Compliance

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this attached rule, if promulgated, will not have an economic impact on small entities because use of this method is optional, and, therefore, no additional costs must be incurred.

This rule does not contain any information collection requirement subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 60

Air pollution control, Particulate matter, Residential wood heaters.

Dated: August 13, 1990.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

The EPA proposes to amend title 40, part 60 of the Code of Federal Regulations as follows:

1. The Authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7601.

§ 60.534 [Amended]

2. By revising § 60.534(d) to read as follows:

* * * * *

(d) Appendix J of this part can, at the manufacturer's option, be used to determine the overall thermal efficiency of a wood heater.

* * * * *

3. By adding Appendix J, to read as follows:

Appendix J—Total Combustible Carbon Method for Determination of Energy Efficency of Wood Heaters

1. Applicability and Principle

1.1 Applicability. This method is applicable to the determination of the overall energy efficiency and heat output rate of a wood heater. For the definition of a wood heater, see 40 CFR part 60, subpart AAA—Standards of Performance for New Residential Wood Heaters.

1.2 Principle. Four simultaneously-collected gas samples are collected in bags by withdrawing gas at steady rates from the wood heater stack, from the dilution tunnel (see 40 CFR part 60, appendix A, method 5G), from an incinerator that oxidizes combustible gases as they are withdrawn from the dilution tunnel, and from ambient air. After the test, the carbon dioxide (CO_2) concentration in each of these four bag samples is measured using an instrumental CO_2 analyzer. The chemical energy loss is determined using the lower heating value of the fuel and the difference in CO_2 concentrations of incinerated and nonincinerated dilution tunnel gas samples. The sensible energy loss is determined using stack gas temperature and stack gas flow; the total gas flow is calculated using a carbon balance relationship. The latent energy loss is determined as the theoretical latent loss, as if combustion were complete in the stove. The sensible energy change of the stove during a test run is estimated by measuring stove surface temperatures. A series of at least four runs (as described in appendix A, method 28) is conducted. The final method result is one overall energy efficiency number, which is the weighted average (as calculated in method 28) of the results for all runs.

2. Apparatus

This method is to be used in conjunction with methods 28 and 5G of appendix A. Thus, the test fuel and apparatus such as the dilution tunnel, stove scale, wood scale, and fuel moisture meter are required as specified in section 2.2 of method 5G and sections 3.2 and 3.6 of method 28, respectively. The following items are also required.

2.1 Sampling Trains. Four separate gaseous sampling trains are used. Schematics of acceptable sampling trains are shown in Figures 1, 2, and 3. Two sampling trains are essentially identical to each other (ambient and tunnel, Figure 2). The stack train, Figure 1, has a condensor (required) and dryer (optional). Dryers or condensors are not to be used in the other three sampling trains. The incinerator train, Figure 3, has an incinerator device as shown in Figures 4 and 5, and a second flowmeter. The total internal volume of each training, from sampling point to sample bag, shall not exceed 0.75 liters. Each sampling train consists of the following components:

2.1.1 Probe—Stack and Dilution Tunnel Trains Only. Stainless steel or glass about 5 to 11mm (3/16 to ½ in.) I.D., and 0.15 to 0.6m (6 to 24 in.) in length.

Note: The ambient train needs no probe. The incinerator train probe is specified in Section 2.2.

2.1.2 Condenser—Stack Train. A glass-in-ice water condenser, consisting of one or more impingers, or one or more flasks with two-holed rubber stoppers.

2.1.3 Dryer—Stack Training. Any moisture indicating material capable of removing water from the sample gas to less than 1.5 percent moisture by volume, such as indicating silica gel.

2.1.4 Filter Holder and Filter. Any filter holder and filter suitable in Method 5G (including section 7). Alternatively, nonreactive disposable filter caninsters may be used.

2.1.5 Pressure Damper (optional). A glass flask or similar device between the sample pump and the flowmeter is optional, depending on the need to collect any water in the sampling system, or to dampen pressure oscillations from the pump, which could cause erroneous readings of the flowmeter. The flask is optional because some laboratories have found it to be unnecessary for either purpose. If a flask is used in the tunnel train, use an identical one in the incinerator train, and vice versa, to equalize response times.

2.1.6 Vacuum Cage. Any vacuum gage with a range suitable for measuring vacuum during use of the train and during leak testing of the train.

2.1.7 Leakless Sampling Pump. With associated metering valves, capable of delivering at least 0.1 liter/min (0.2 ft^3/hr).

2.1.8 Tee and Valve (optional). To permit withdrawal of a portion of the sample during a test run for continuous real time instrumental analysis.

2.1.9 Flowmeter. Any flowmeter capable of being used to maintain sample flows constant to within 10 percent.

2.1.10 Three-Way Valve. For evacuating the sample bag, for isolating the sample bag once evacuated, and for permitting withdrawal of sample from the bags.

2.1.11 Sample Bag. Air tight Tedlar sample bag, with a capacity between 5 and 100 liters.

Note: Mention of trade names on products does not constitute endorsement by the Environmental Protection Agency.

2.1.12 Positive Pressure system for Sample Bag. A flat piece of material, with a minimum mass of 0.5 kg (or 1 lb) and an area on one side approximately equal to that of a deflated sample bag, capable of being placed on top of a bag in such a fashion that the bag contents are maintained at a slightly positive pressure from the start of the bag sampling run to the completion of bag sample analysis.

Note: This sytem is intended to assure no contamination of the bag samples by ambient air occurs due to small bag leaks. This requirement also precludes the need for sample bag leak checks.

2.2 Incinerator System. To fully oxidize virtually all carbon containing combustibles in a sample drawn from the dilution tunnel. A typical system is illustrated in Figures 4 and 5 and consists of the following components:

2.2.1 Probe. Stainless steel, with 5mm (or 3/16 in.) minimum ID, and no more than 3 cm (or 1 in.) longer than the radius of the dilution tunnel. Do not use any type of filter between the probe inlet and the incinerator.

2.2.2. Incinerator Body. Stainless steel, with sample oxidizing cavity between primary input and output ports, a secondary input port for introducing bottled check gases, one or more cavities for heaters, a cavity fo a temperature probe for the temperature controller, and an insulating wrap around the outside. The volume of the oxidizing 0.15 liters. The oxidizing cavity is typically charged with catalytically-coated (e.g., platinum and palladium) ceramic beads or pellets. The probe is connected directly to the primary input port.

2.2.3 Temperature Controller. To maintain the incinerator at a temperature of approximately 440°C (825°F).

2.2.4 Flowmeter. Connected to the secondary input port, with a capacity of at least twice the maximum sampling rate during testing and accurate to within 10 percent of the maximum sampling rate.

2.3 CO_2 Analyzer Sampling Train. Refer to Figure 6.

2.3.1 Vacuum Gage. To measure vacuum during use of the train and during leak testing of the train.

2.3.2 Leakless Pump. With associated metering valve(s), capable of delivering more than the flow required in the manufacturer's instructions for the CO_2 analyzer.

2.2.3 Flowmeter. To measure sample flow to the analyzer, with an accuracy consistent with the manufacturer's instructions for the CO_2 analyzer.

2.3.4 CO_2 Analyzer. Any analyzer with a linerarized output, meeting the specifications of section 4, and capable of providing a measure of CO_2 in the range of concentrations encountered in application of this method.

Note: Analyzers with ranges less than those specified above may be used, provided actual concentrations do not exceed the range of the analyzer. The pump used in this train may also be used for evacuating the bags. It is also permissible to use components from one or more of the sampling trains for the CO_2 analyzer train.

2.4 Miscellaneous Instruments.

2.4.1 Flue Temperature Monitor. Capable of measuring flue gas temperatures to within 1 percent of absolute temperature.

2.4.2 Ambient Temperature Monitor. Capable of measuring temperature to within 2 °C (or 4 °F) when its sensor is located centrally in a vertically oriented 150 mm (or 6 in.) long by 50 mm (or 2 in.) ID diameter pipe shield that is open at both ends.

2.4.3 Stove Surface Temperature Monitors. Five, each capable of measuring temperature within 1.5 percent of expected absolute temperatures.

3. Reagents

3.1 Sampling. Reagents used in sampling are as follows:

3.1.1 Filters. Glass fiber filters without organic binder, exhibiting at least 99.95 percent efficiency (less than 0.05 percent penetration) on 0.3 micrometer dictyl phthalate smoke particles. Gelman A/E 61631 filters have been found acceptable for this purpose.

Note: In this test method, filters are used only to protect the instruments, thus filter specifications are suggestions, not requirements.

3.1.2 Silica Gel or Drierite. Same as method 5, section 3.1.2.

3.1.3 Crushed Ice.

3.2 Cylinder Gases.

3.2.1 CO_2 Calibration Gases. Four gas mixtures, required for the CO_2 analyzer, with nominal CO_2 concentrations in Nitrogen (N_2) as follows:

Gas Level	Concentration (Volume Percent)
High	15
Mid	1
Low	0.2
Zero	CO_2-free air, or N_2 with less than 10 ppm CO_2.

The gas mixture shall be certified by the manufacturer to be accurate to within 2 percent of each component. Because the calculated chemical energy loss depends primarily on the ratios of low level CO_2 concentrations (as opposed to the absolute values of the concentrations), the manufacturer's certification of accuracy is deemed sufficient to meet this requirement.

3.2.2 Incinerator Check Gases. Two gas mixtures, for checking the incinerator performance, with nominal concentrations as follows:

Gas Level	Composition (Volume Percent)
Mid	0.1% CO; 0.1% CH_4; balance CO_2-free air.
Zero	CO_2-free air.

Note: The purpose of the incinerator check gases is not to calibrate the incinerator, but to check that it effectively oxidizes combustible gases, and to check that there is no residual CO_2 being emitted from the oxidation of any particulate matter lodged in the incinerator. The first of the two gas levels listed above is labelled "Mid" because higher and lower actual combustible gas concentrations may be encountered.

4. CO_2 Analyzer Train Performance Specifications

For the purpose of this method, span value is defined as the upper limit of the range specified in section 2.3.4.

4.1 Response Time. The amount of time required for the CO_2 analyzer sampling train to display 90 percent of a step change in the concentration of CO_2 entering the analyzer sampling train shall not exceed 15 seconds.

4.2 Zero Drift. The manufacturer's zero drift specification for the CO_2 analyzer shall not exceed 1 percent of span value over a period of 8 hours.

4.3 Span Drift. The manufacturer's span drift specification for the CO_2 analyzer shall not exceed 1 percent of span value over a period of 8 hours.

4.4 Resolution of Readout. The resolution of the readout for the CO_2 analyzer shall be at least as good as 1 percent of the measured CO_2 concentrations, except for measurement of ambient CO_2 level, in which case a resolution of 10 percent of the concentration is acceptable.

5. Incinerator Performance Specifications

5.1 Zero Check Gas Response. When CO_2-free air is passed through the incinerator, at a flow rate that is at least twice the flow rate used during sampling (Section 6.2.2), the CO_2 concentration at the output of the incinerator shall be less than 0.01 percent.

5.2 Mid-Level Check Gas Response. When mid-level check gas is passed through the incinerator, at a flow rate that is at least twice the flow rate used during sampling, the measured change in CO_2 concentrations shall be at least 90 percent of the theoretical value, based upon the actual composition of the mid-level gas used.

Note: Ninety percent oxidation of the combustible carbon in the mid-level gas is considered adequate for the following two reasons:

5.2.1 Methane is substantially harder to oxidize than CO and most hydrocarbons found in wood smoke. Thus, a 90 percent oxidation efficiency for a calibration gas whose combustible carbon is approximately half-methane would correspond to a higher conversion efficiency for wood smoke.

5.2.2 If, in actual use in wood stove testing, the incinerator's conversion efficiency is 90 percent, the resulting error in overall energy efficiency will be less than 2 percent for a stove with a combustion efficiency of 80 percent. Most stoves that comply with particulate emission regulations will have combustion efficiencies higher than 90 percent, and hence, smaller errors in overall efficiency.

6. Procedures

Operate the wood heater as described in method 28, section 6. Procedures relating to the operation of the dilution tunnel are found in method 5G, section 4.

6.1 Pretest Preparation.

6.1.1 Leak-Checks. These procedures apply to the four gas bag sampling trains. A pretest leak check of the vacuum side is recommended but not required. A leak check of the vacuum side is mandatory at the conclusion of each sampling run.

Note: There is no required leak check on the positive pressure side of each sampling train. A large leak would make it impossible to fill the sample bag because of its required positive pressure (Section 2.1.12). A small leak would result in loss of some sample, but should not affect the accuracy of the results.

6.1.1.1 Leak-Check Procedure. For leak checking the vacuum side of the sampling system, seal the end of the probe and use the sampling pump to create a vacuum of at least twice the maximum vacuum encountered during sampling, or 100 mm Hg (5 in. Hg), whichever is greater.

Note: A second flowmeter (in addition to the one used for metering the sample flow into the sample bags) may be necessary to provide the accuracy needed to measure the leaking rate.

6.1.1.2 Acceptance Criterion for Leak Check. Vacuum-side leakage rate in excess of 2 percent of the average sampling rate is unacceptable.

6.1.2 Incinerator Performance Checks.

6.1.2.1 Zero and Mid-Level Check Gas Responses. Perform these checks of the tunnel incinerator at the conclusion of the collection of a set of samples for an efficiency determination. Connect the CO_2 analyzer train to the tunnel incinerator sampling train using the three-way valve shown in Figure 3. Turn on the pumps in both trains and pass CO_2 free air through the incinerator at a flow rate typical of those used during sampling (Section 6.2.2). Note and record the analyzer

response when no further change in the analyzer response can be detected. Then repeat this procedure with the mid-level check gas. If the incinerator performance specifications are not met, discard the samples and repair the incinerator.

Note: Each check gas is introduced through the second input port to the incinerator at a flow of approximately twice that at the exit of the incinerator. This permits checking the incinerator performance without removing the incinerator probe from either the incinerator or the tunnel. The excess check gas flow exhausts through the probe.

6.1.3 Bag Evacuation. Evacuate the bags. If necessary, roll the bag up toward the fitting from the opposite corner.

Note: If a sample bag which was last used to collect a stack sample (or other sample with comparable or higher CO_2 concentrations) is to be next used for an ambient, dilution tunnel, or tunnel incinerator sample, then flush the bag with ambient air or zero air before evacuation. If a new bag is to be used for either a tunnel or tunnel incinerator sample, then the other bag must either also be new, or purged before use with a gas containing less than 0.1 percent CO_2

6.1.4 Positive Pressure System. Check that the positive pressure system (Section 2.1.12) is in place and operational.

6.1.5 Sampling Probe Locations. Locate the flue gas probe and flue temperature probe at the center of the flue and 2.4 m (or 8 ft) from the bottom of the legs or pedestal of the stove. Locate the ambient air probe in the same air space as the stove under test, at a position approximately 1 m (3 ft) below the top of the chimney and 1 m (3 ft) from the flue. Locate the tunnel probe and tunnel incinerator probe approximately ¼ m (1 ft) below the particulate train probe(s) location specified in method 5G, section 2.2.3, at the center of the tunnel.

6.1.6 Sample Train Purging. A minimum of 5 minutes before the start of each test run, turn on the pumps in all four sampling trains and use the three-way valves just before the sample bags to vent the sample flows.

Note: Purging the sample trains serves to prevent dilution or contamination of the bag samples due to air or other gases in the sample trains prior to the start of the test run. Each vent location must be downstream of any significant sample train volumes.

6.2 Sampling.

6.2.1 Sampling Time. Sampling begins at time zero as defined in method 28, Section 6.4.1. Start filling the sample bags rotating the valves located just before each sample bag. Turn all valves to the appropriate position within 20 seconds of time zero. End sampling at the completion of the test run as defined in method 28, section 6.4.6.

6.2.2 Sampling Rate. Maintain constant sampling rates into the bags to within 10 percent (see section 9.17), and high enough to insure that the total volume of each collected sample is greater than 20 liters (or 0.7 ft^3). Operate the tunnel incinerator sampling train at approximately the flow rate required and used by the CO_2 analyzer during analysis of bag samples. If this flow rate is more than the desired bag filling rate, vent the excess sample, using an optional tee and valve as shown in Figure 3.

6.2.3 Use of CO_2 Analyzer During Test Run. If the sampling trains contain the optional tees and valves, the CO_2 analyzer may be used during the test run to monitor gases in the four sampling trains, as long as filling of the sample bags is not affected adversely.

6.3 Data Recording. During the test run, record the four sampling rates, the four sampling train vacuums, the flue gas temperature, the ambient temperature, and the incinerator temperature once every 10 minutes. Record the stove surface temperatures at time zero and at the end of the test run, as described in method 28.

7. Sample Analysis

7.1 Leak Checks. A pre-analysis leak check of the CO_2 analyzer train is recommended but not required. A post-analysis leak check is mandatory at the conclusion of the sample analysis.

7.1.1 Leak-Check Procedure. Seal the inlet to the CO_2 analyzer train. (If the inlet is connected to the three-way valves in the four sampling trains, this sealing requirement can be met by use of the three-way valve.) Use the CO_2 train pump to create a vaccum greater than either twice the maximum vacuum encountered during the sample analysis, or 125 mm Hg (or 5 in. Hg), whichever is greater. Record the flow indicated by the flowmeter, corrected for pressure, if applicable.

7.1.2 Acceptance Criterion. If vacuum side leakage rate is found to be in excess of 2 percent of the average sampling rate, correct the leak and reanalyze the samples, if previously analyzed.

7.2 Analyzer Train Audit. Just before (within approximately 5 minutes) analyzing the four gas samples, zero and span the CO_2 analyzer train with the zero and high level gases. Then introduce the mid-level gas. Using the most recent calibration curve for the analyzer, compare the measured concentration of the mid-level gas to its actual concentration. If the values do not agree to within 5 percent of their average value, recalibrate the analyzer train, then start the analyzer audit procedure over again.

7.3 Concentration Measurements. Measure the CO_2 concentration in each of the four bag samples at least twice. Use the following procedure. After the appropriate preparation of the CO_2 analyzer train (Sections 7.1 and 7.2), analyze the four samples in quick succession in the following order: ambient air, tunnel, incinerated tunnel, and then stack. Next rezero the analyzer (optional). Then reanalyze the four samples a second time in quick succession in the same order. If the two measurements of each sample agree to within their respective acceptance criteria (see section 7.3.1), the analysis is complete. Use the average of the two measured values in subsequent calculations. If the two analyses for any one sample do not satisfy the acceptance criterion, rezero the analyzer (optional) and reanalyze all four samples a third time using the same procedure. If, for each of the four samples, at least two of the three analyses satisfy the respective acceptance criterion, the analysis is complete; use the average of the two analyses which fall within the acceptance criteria of each other in subsequent calculations. If, after three analyses the acceptance criteria are still not met, a need for repair of the CO_2 analyzer may be indicated. If no problem is found with the CO_2 analyzer, reject the samples and repeat the sample run.

7.3.1 Acceptance Criteria for Concentration Measurements. The acceptance criteria for each of the four samples, are given below:

Sample	Acceptance criterion percent of average value*
Ambient	20
Tunnel	3
Incinerated tunnel	3
Stack	2

* For example, paired stack sample analyses of 9.9 and 10.1 mole percent pass, and 9.9 and 10.2 mole percent fail. For extremely clean-burning appliances, the inexactness of the measurement process may result in a measured tunnel CO_2 concentration exceeding the measured incinerated tunnel concentration by up to 2 percent. If the CO_2 concentration in the tunnel sample is greater than 2 percent higher than the incinerated sample, consider the sample run invalid and repeat it.

Note: If the tunnel sample CO_2 is between 100 and 102 percent of the incinerated tunnel CO_2 concentration, record all the measured values as usual, but for subsequent calculations take the tunnel value as 99 percent of the incinerated tunnel value.

8. Calibrations and Audits

8.2 Flowmeters. Before initial use and semiannually thereafter, calibrate flowmeters by running them in their sampling trains in series with a calibrated dry gas meter. Flowmeters shall be accurate to within 5 percent at the flow rates typically used.

Note. The flowmeters are to be calibrated as used in their sampling trains because of the possibility that pressure or flow pulsations from the sampling pumps may result in erroneous readings with certain types of flowmeters, such as rotameters. Such problems can usually be solved by inserting a surge tank in the sampling line between pump and rotameter.

8.2 Temperature Monitors. Follow the procedures as described in Method 2, Section 4.3, before initial use and semiannually thereafter.

Note: If thermocouples are used, it is not necessary to calibrate every individual thermocouple if the following three conditions are met:

8.2.1 The thermocouples are all made with wire from a single spool.

8.2.2 The manufacturer of the thermocouple wire supplies a certificate affirming alloy uniformity such that temperature measurements are accurate to within at least 1 percent of absolute temperature.

8.2.3 A representative thermocouple, made with wire from the spool, is calibrated in accordance with Method 2, Section 4.3, on a semiannual schedule.

8.3 CO_2 Analyzer Train. Upon initial assembly of the CO_2 analyzer sampling train, perform a multipoint calibration and response time check of the analyzer train. At any time the single point audit (Section 7.2) fails, redo the multipoint calibration.

8.3.1 Set up the train and allow it to operate for a sufficient time to stabilize, as recommended by the analzyer manufacturer's published operating procedure.

8.3.2 Introduce zero gas into the inlet at the normal sample flow rate, and zero the analyzer output. Then introduce the high-level calibration gas and span the analyzer output.

8.3.3 Introduce consecutively, in the same manner as in section 7.3, the low-level and mid-level calibration gases, and record the instrument response to each when no further change in the analyzer response can be detected.

8.3.4 Calculate and plot a linear least square calibration curve, forcing the curve to pass through the origin.

9. Calculations

Carry out calculations, retaining at least one extra decimal figure beyond that of the acquired data. Round off figures after the final calculation. Other forms of the equations may be used as long as they give equivalent results.

9.1 Nomenclature.

AF = Air-to-fuel ratio; dry combustion air mass divided by dry fuel mass, kg dry air/kg dry wood (lb dry air/lb dry wood).

C = Mass fraction of carbon in dry (zero moisture content) fuel; use 0.508 for Douglas fir fuel specified in method 28, section 4.2.

CE = Combustion efficiency, %.

C_s = Average specific heat of dry stack gas, kJ/kg-°K (Btu/lb-°R).

C_{H2O} = Specific heat of water vapor, 1.9 kJ/kg-°K (0.45 Btu/lb-°R).

C_{STOVE} = Specific heat of stove, 0.65 kJ/kg-°K (0.155 Btu/lb-°R).

CO_{2A} = CO_2 volume percent in ambient air, %.

CO_{2S} = CO_2 volume percent in dry stack sample, %.

CO_{2SI} = CO_2 volume percent in dry incinerated stack sample, %.

CO_{2TI} = CO_2 volume percent in incinerated tunnel sample, %.

CO_{2T} = CO_2 volume percent in tunnel sample, %.

E_{LL} = Latent energy loss assuming complete combustion, kJ (Btu).

E_{CL} = Chemical energy loss, lower-heating-value basis, kJ (Btu).

E_{SL} = Sensible energy loss, kJ (Btu).

E_{STOVE} = Sensible energy of the stove, kJ (Btu).

E_W = Fuel wood chemical energy, kJ (Btu).

H = Mass fraction of hydrogen in dry (zero moisture content) fuel; use 0.0583 for Douglas fir fuel specified in method 28, section 4.2.

h = Enthalpy of vaporization of water at room temperature, use 2,442 kJ/kg (1,050 Btu/lb).

HHV = Higher heating value of the dry wood fuel; use 19,810 kJ/kg (8,516 Btu/lb).

HTE_U = Heat transfer efficiency (uncorrected for stove energy storage), %.

LHV = Lower heating value of carbon-containing combustible emissions; use 400,000 kJ/kg-mole of carbon (172,000 Btu/lb-mole of carbon).

m_d = Mass of fuel load, dry basis, kg (lb); $= m_w/(1 + MC_d)$.

M_d = Average molecular weight of dry stack gas, kg/kg-mole (lb/lb-mole).

m_{H2O} = Mass of water released and generated if wet fuel was completely oxidized, kg (lb).

m_S = Dry stack gas total mass, kg (lb).

m_{STOVE} = Mass of stove, kg (lb).

m_T = Total tunnel wet gas mass, computed at average wet tunnel flow times test duration, kg (lb).

m_W = Mass of fuel load, wet (as fired) basis, kg (lb).

MC_d = Moisture content of fuel, dry basis, expressed as a fraction.

OE_C = Overall energy efficiency (corrected for stove energy storage), %.

OE_U = Overall energy efficiency (uncorrected for stove energy storage), %.

P = Average heat output rate (power), kW (Btu/hr).

Q_{sd} = Average tunnel dry volumetric flow rate (method 2, Eq. 2–10), m^3/hr (ft^3/hr).

T_A = Average ambient temperature, °K (°R).

T_S = Average stack temperature, °K (°R).

T_{S1} = Average stove surface temperature at start of test, °K (°R).

T_{S2} = Average stove surface temperature at end of test, °K (°R).

θ = Sampling time, hr.

ρ = Tunnel gas density at standard temperature and pressure. Use 1.186 kg/m^3 (0.074 lb/ft^3).

9.2 Wood Water. Calculate the total theoretical (assuming complete combustion) mass of water vapor released and generated as follows:

$$m_{H2O} = m_d(9H + MC_d) \quad \text{Eq. 1}$$

9.3 Stack Incinerated CO_2. Calculate the dry CO_2 concentration which would be measured in incinerated stack gas as follows:

$$CO_{2SI} = CO_{2S}(CO_{2TI} - CO_{2A})/(CO_{2T} - CO_{2A}) \quad \text{Eq. 2}$$

9.4 Stack Molecular Weight. Calculate the average molecular weight of the dry stack gas as follows:

$$M_d = [44(CO_{2\,SI}) + 32(21 - CO_{2\,SI}) + 28(79)]/100 \quad \text{Eq. 3}$$

9.5 Stack Specific Heat. Calculate the average specific heat in kJ/kg °K of the stack gas as follows:

$$C_S = 1.003 + 3.448 \times 10^{-5}(T_S - T_A) + 2.036 \times 10^{-7}(T_S - T_A)_2 \quad \text{Eq. 4}$$

9.6 Dry Stack Gas. Calculate the total amount of dry stack gas as follows:

$$m_s = M_d(C)m_d/(12\,CO_{2\,SI}/100) \quad \text{Eq. 5}$$

9.7 Calculate the air-to-fuel ratio as follows:

$$AF = (m_S - m_d + m_{H2O} - m_d\,MC_d)/m_d \quad \text{Eq. 6}$$

9.8 Stove Sensible Energy Change. Calculate the sensible energy change of the stove, ΔE_{STOVE}, as follows:

$$\Delta E_{STOVE} = C_{STOVE}\,m_{STOVE}(T_{S2} - T_{S1}) \quad \text{Eq. 7}$$

9.9 Calculate the wood energy input as follows:

$$E_W = m_d(HHV) \quad \text{Eq. 8}$$

9.10 Calculate the latent loss as follows:

$$E_{LL} = m_{H2O}(h) \quad \text{Eq. 9}$$

9.11 Calculate the sensible loss as follows:

$$E_{SL} = [m_S C_S + m_{H2O}\,C_{H2O}](T_S - T_A) \quad \text{Eq. 10}$$

9.12 Calculate the chemical energy loss as follows:

$$E_{CL} = [m_d C/12](CO_{2T1} - CO_{2T})/(CO_{2T1} - CO_{2\,A}) \quad \text{Eq. 11}$$

9.13 Calculate the overall efficiency, uncorrected for change in stove temperature, as follows:

$$OE_U = 100[1 - (E_{LL} + E_{SL} + E_{CL})/E_W] \quad \text{Eq. 12}$$

9.14 Calculate the combustion efficiency as follows:

$$CE = 100[1 - (1.03\,E_{CL})/E_W] \quad \text{Eq. 13}$$

9.15 Calculate the uncorrected heat transfer efficiency as follows:

$$HTE_U = 100(OE_U/CE) \quad \text{Eq. 14}$$

9.16 Calculate the corrected overall efficiency as follows:

$$OC_C = OE_U - (100 - HTE_U)\Delta E_{STOVE}/E_W \quad \text{Eq. 15}$$

9.17 Calculate the heat output rate (power):

$$P = (OE_C/100)E_W/\theta(3600) \quad \text{Eq. 16}$$

9.18 Sampling Rate Constancy. For each of the bag sampling trains, calculate the average sampling rate during the entire run from the data recorded as described in section 6.3. Then calculate the percentage deviation of each recorded sampling rate from its run average. The sampling rate is considered adequately constant if the average magnitude of the deviations is less than 10 percent and if no single deviation is larger than 15 percent.

Note: The actual calculations may be deleted if the required conditions are obviously met.

9.19 Calculate the weighted average overall efficiency for the four runs in a manner analogous to the weighted average calculation performed in section 8.1 of Method 28. Use this weighted average value to report the overall efficiency of the wood heater.

10. Data Quality Checks

If any of the following inequities are not satisfied, an error in the data is likely.

10.1 Ambient CO_2:

$$0.03 < CO_{2A} < 0.1$$

10.2 CO_2 concentration ordering:

$$O < CO_{2A} < CO_{2T} < CO_{2TI} < CO_{2S}$$

10.3 Carbon recovery fraction:

$$.85 < f < 1.15$$

where:

$$f = [(CO_{2\,TI} - CO_{2A})/100](12/29)m_T/(Cm_d)$$

and:

$$m_T = 1.04\,Q_{sd}(\theta)(\rho)$$

Note: The factor 1.04 converts Q_{sd} from dry to wet basis under the assumption of 4 percent moisture in the dilution tunnel, as permitted in Method 5G.

11. Bibliography

1. Jaasma, D.R. and J.W. Shelton. Technology for Efficiency Measurement of Woodburning and Other Solid Fuel Appliances: Phase II Report. U.S. Department of Energy, Washington, D.C. Prepared under grant number DE–AS05–83CE23858. March 1987.

BILLING CODE 6560–01–M

FIGURE 1. STACK SAMPLING TRAIN

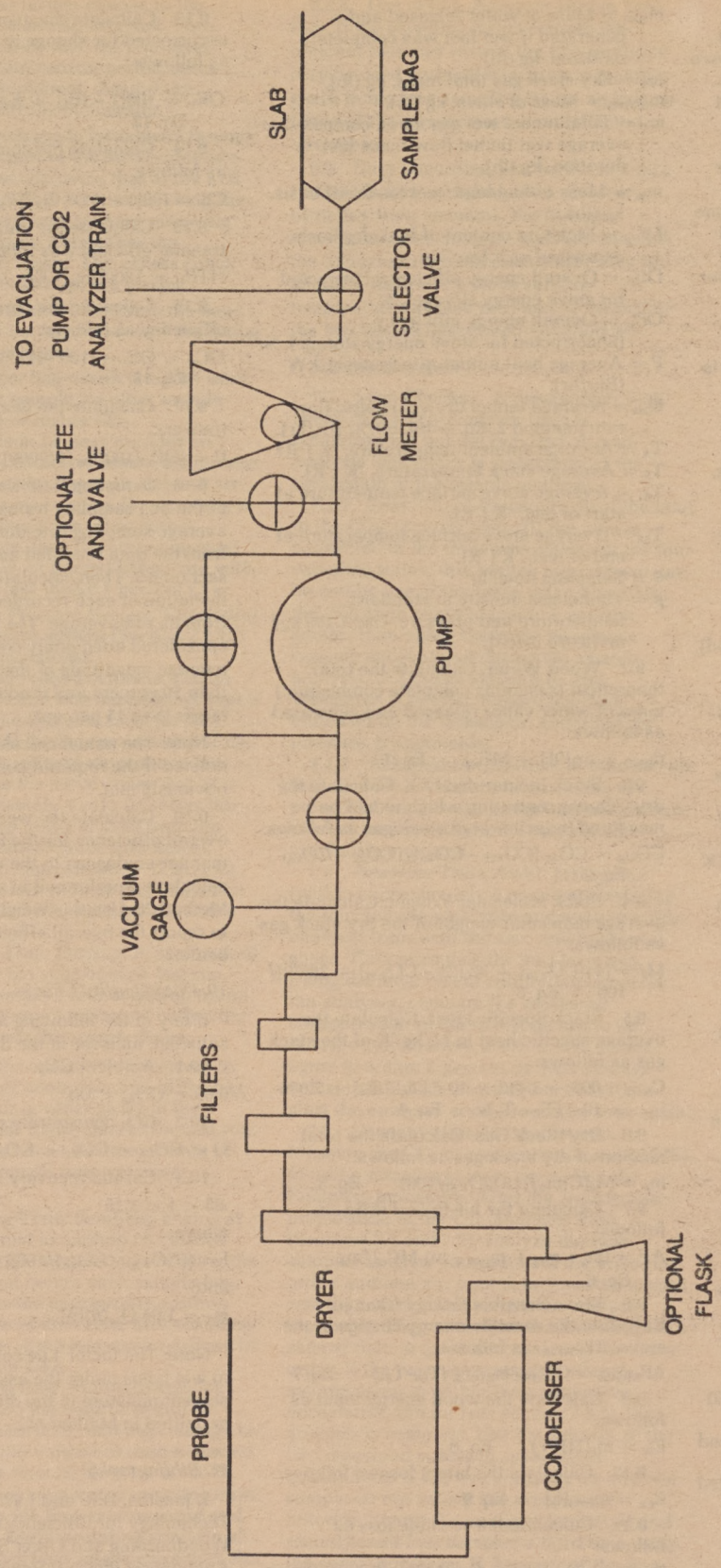


FIGURE 2. AMBIENT AND TUNNEL SAMPLING TRAINS

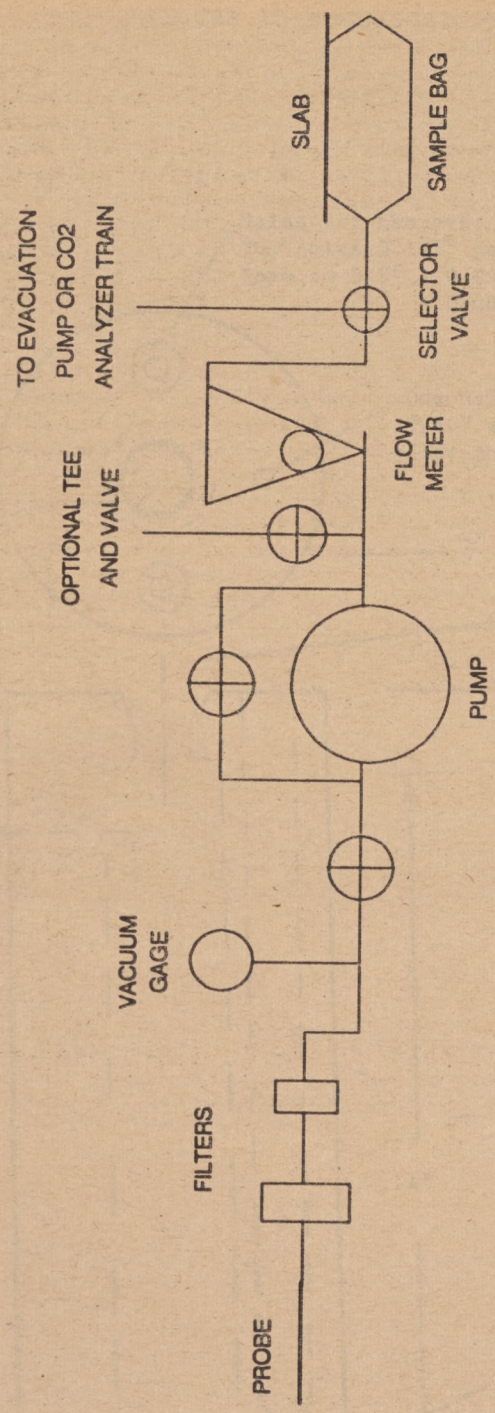


FIGURE 3. TUNNEL INCINERATOR SAMPLING TRAIN

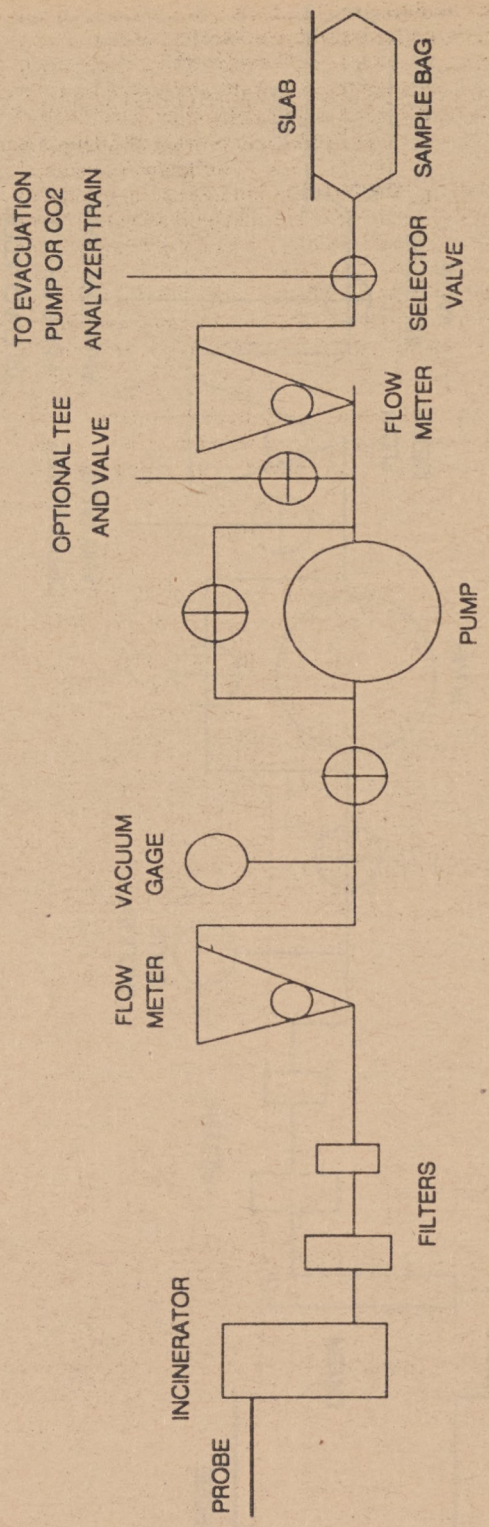
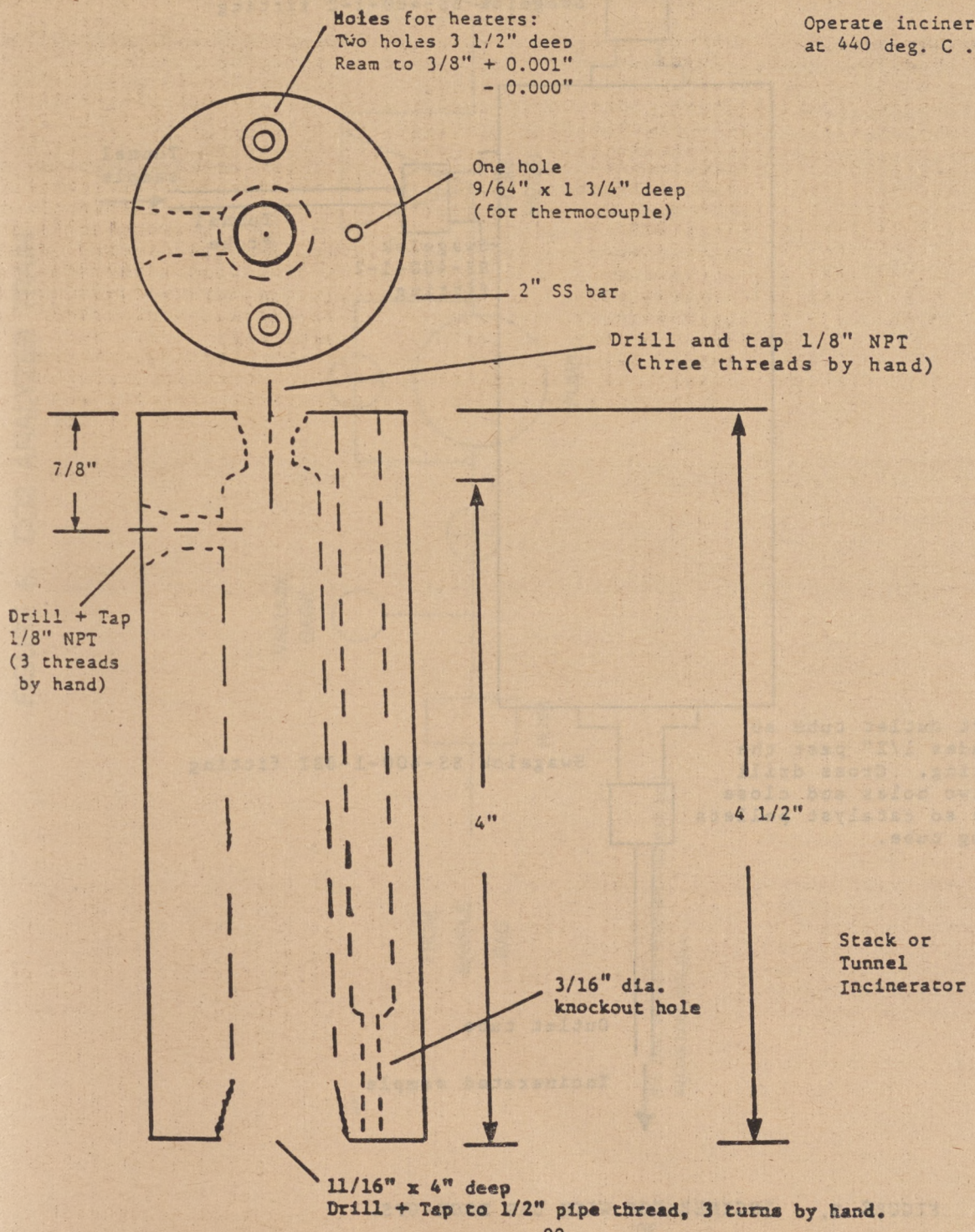


FIGURE 4. SUGGESTED INCINERATOR DESIGN

Note: Use 50/50 mix of Englehard #2253701 and #1243801 catalysts.

Two Hotwatt #SC3755 heaters required.

Operate incinerator at 440 deg. C .



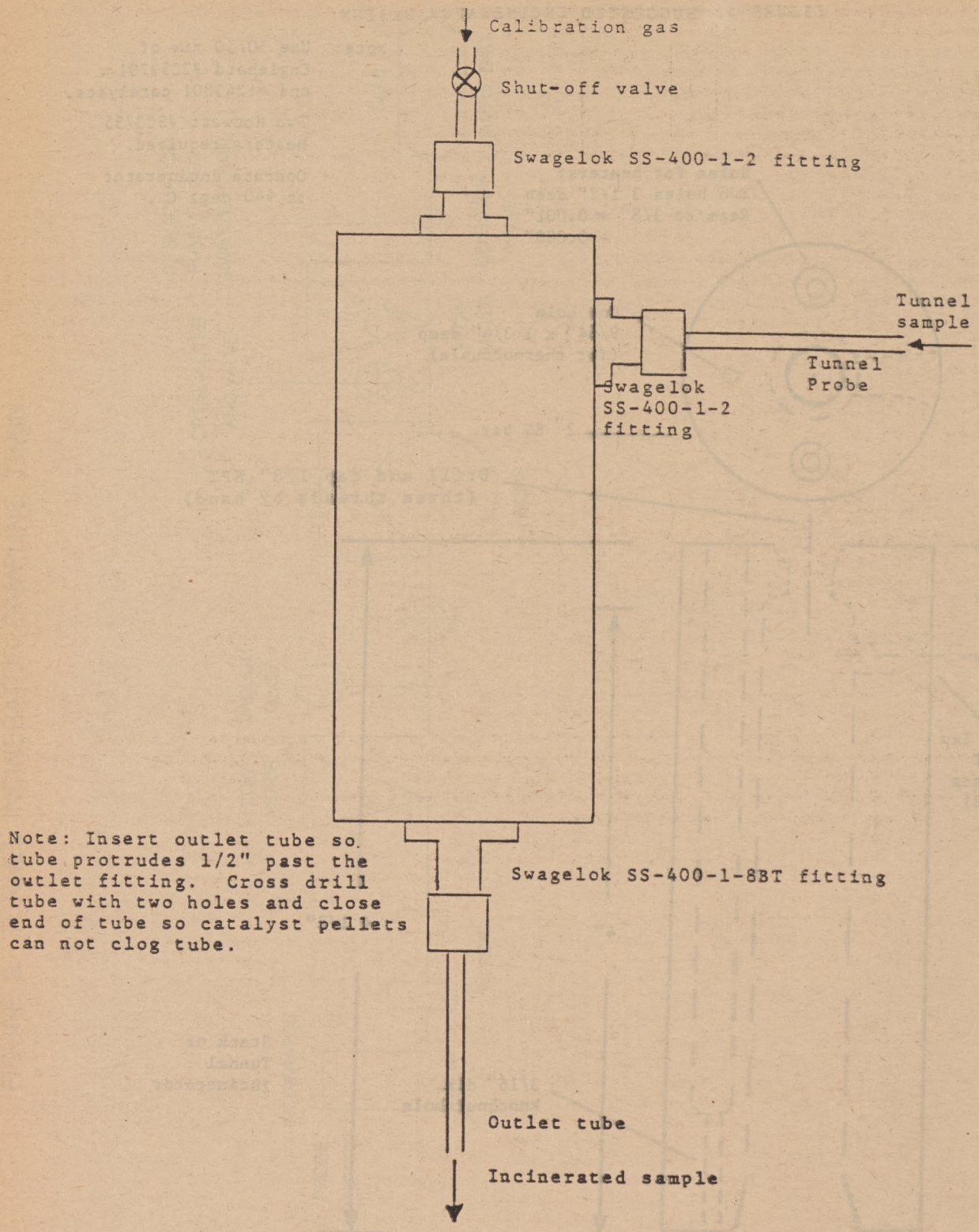
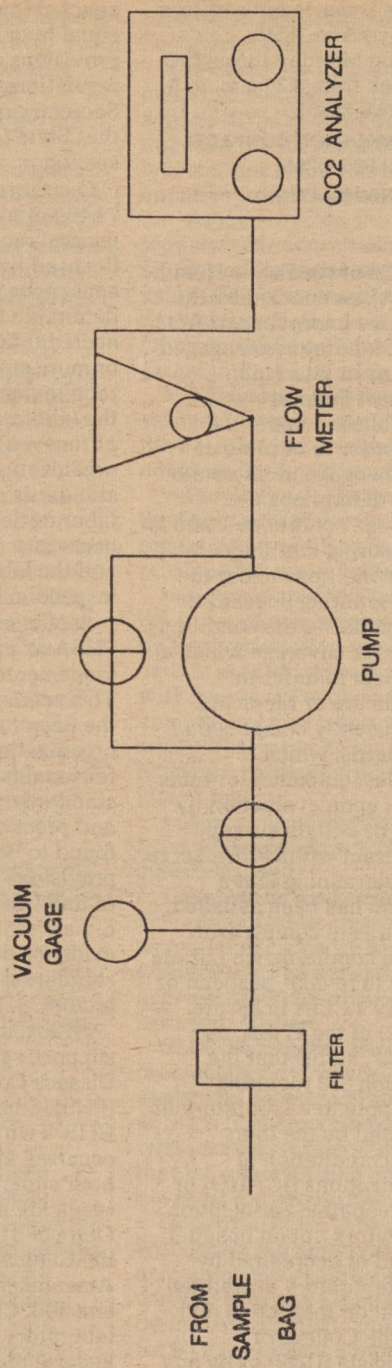


FIGURE 5. INCINERATOR WITH GAS HOOK-UPS.

FIGURE 6. CO2 ANALYZER TRAIN



[FR Doc. 90-19572 Filed 8-17-90; 8:45 am]

BILLING CODE 6560-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 493

[HSQ-181-P]

RIN 0938-AE62

Clinical Laboratories Improvement Act Program; Granting and Withdrawal of Deeming Authority to Private Nonprofit Accreditation Organizations and State Licensure Agencies

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

ACTION: Proposed rule.

SUMMARY: This rule proposes to permit HCFA to determine that laboratories accredited or licensed by a HCFA-approved private, nonprofit accreditation organization or State licensure agency are deemed to meet the requirements established in 42 CFR part 493 of the regulations under section 353 of the Public Health Service Act (PHSA). Section 353 of the PHSA was enacted by the Clinical Laboratories Improvement Act of 1967 (CLIA '67) and was amended by the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88).

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on October 19, 1990.

ADDRESSES: Mail comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: HSQ-181-P, P.O. Box 26676, Baltimore, Maryland 21207

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments.

Please address a copy of comments on information collection requirements to:

Allison Herron, Office of Information and Regulatory Affairs, Room 3208, New Executive Office Building, Washington, DC 20503.

In commenting, please refer to file code HSQ-181-P. Comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Irene Gibson, (301) 966-6768.

SUPPLEMENTARY INFORMATION:

Background

Under section 353 of the Public Health Service Act (PHSA), as enacted by the Clinical Laboratories Improvement Act of 1967 (CLIA '67), laboratories engaged in testing specimens in interstate commerce must meet Federal requirements established under the CLIA program in order to become or remain licensed to engage in interstate commerce. HCFA determines the requirements, called "conditions", and is responsible for assuring that they are met. The Federal conditions under the CLIA program for granting licenses to laboratories are similar to the conditions of participation or for coverage which a laboratory must meet in order to participate in Medicare or Medicaid. Each condition is usually comprised of one or more standards, which enumerate activities, outcomes, or other requirements that, upon evaluation by HCFA, its agents, or a State survey agency under contract with HCFA, serve as the basis for determining that a particular condition has been satisfied. If the laboratory fails to comply with any CLIA program condition, we initiate an adverse action to revoke, suspend or limit the laboratory's CLIA licensure.

Section 353(d)(2) of the PHSA, as enacted in CLIA '67, states that the provisions of section 353 requiring licensing do not apply to a laboratory in a hospital accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or the American Osteopathic Association (AOA) (or a laboratory not on hospital premises inspected or accredited by either), or to any laboratory accredited by the Commission on Inspection and Accreditation of the College of American Pathologists (CAP) or by any other accreditation organization approved by the Secretary for this purpose. The standards applied by these organizations to determine whether to accredit a laboratory must be equal to or more stringent than the requirements of section 353 and the regulations implementing it and there must be adequate provision for assuring that the standards continue to be met by each accredited laboratory of a given accreditation organization. Section 353(1) of the PHSA as enacted by CLIA '67 provides that where a State has enacted laws that set forth standards equal to or more stringent than the provisions of section 353 or the regulations under that section, the Secretary may exempt laboratories in that State from compliance with that section.

Our current regulations at 42 CFR 74.46 permit an exemption from the general requirement that a laboratory be licensed by HHS in order to test specimens in interstate commerce. If we determine that standards applied by an accreditation organization are equal to or more stringent than the PHSA requirements and our regulations, then the laboratory does not need to obtain or renew a CLIA license, provided the organization assures us that its standards are met by the laboratory, the laboratories and organization make all necessary information available to us, and the laboratory agrees to permit inspection by the Secretary.

Sections 353(d)(2) and 353(1) of the PHSA as enacted by CLIA '67 are also implemented in current 42 CFR 74.47. This section of the regulations requires the Secretary to give an accreditation organization or State licensure agency a reasonable period of time to revise its standards, procedures, requirements and practices that the Secretary has found to be less stringent than the provisions of the PHSA. The assessment of findings is based on the Secretary's review of the organization's standards, evidence of violations of those standards, inspections, or other relevant factors.

HCFA, using scientific and technical support, as needed, from the Centers for Disease Control, Public Health Service (PHS), administers the CLIA program for HHS. Two significant events recently occurred affecting clinical laboratories, both under the CLIA program and under Medicare and Medicaid. First, on October 31, 1988, Public Law 100-578, the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88), was enacted. CLIA '88 made virtually every laboratory in the country subject to Federal regulation whether or not it participates in the Medicare and Medicaid programs and whether or not it tests specimens in interstate commerce, and establishes test complexity as the basis for evaluating satisfactory performance in laboratory testing. (See discussion below under "Legislation".) Second, on March 14, 1990, we published in the **Federal Register** (55 FR 9538) final rules that consolidated and recodified regulations containing requirements concerning the Medicare, Medicaid and CLIA programs into a new 42 CFR part 493. Except for

the requirements for laboratories in long term care facilities, these rules are effective September 10, 1990. On that date we will have a single set of regulations for laboratories subject to Medicare, Medicaid, and CLIA requirements, with a separate subpart (Subpart O) for the licensure procedures unique to the CLIA program. Subpart O concerns licensure application, issuance, suspension limitation, revocation, and approval of accreditation organizations and State licensure agencies.

Section 493.1704(c) of Subpart O, which implements CLIA '67, permits an exception to the general requirement that a laboratory receive CLIA license from HHS in order to test specimens obtained in interstate commerce. Currently, the laboratory does not need to obtain or renew a license (under CLIA '67) if we determine that standards applied by an accreditation organization are equal to or more stringent than the CLIA condition-level requirements and the requirements of Subpart O; if the organization assures us that its standards are met by the laboratory; if the laboratory and organization make all necessary information available to us; and if the laboratory holds an unrevoked and unsuspended letter of exemption issued in accordance with § 493.1710. This provision of the regulation implements section 353(d)(2) of the PHSA, as enacted by CLIA '67.

Section 493.1701(b)(4) implements section 353(1) of the PHSA as enacted by CLIA '67. That section states that the CLIA requirements (subpart O) do not apply to any laboratory exempted under section 353(1) of the PHSA.

Legislation

On October 31, 1988, Congress enacted the Clinical Laboratory Improvement Amendments of 1988 (CLIA '88) (Pub. L. 100–578), which replaced in its entirety section 353 of the PHSA. CLIA '88 continues to provide for the accreditation of laboratories by accreditation organizations (section 353(e)) or exemption of laboratories from CLIA requirements by certain licensure agencies in the States (section 353(p)). These subsections were effective January 1, 1990. The content of the CLIA '88 provision concerning State licensure remains the same as under CLIA '67, however the accreditation provision is much more detailed.

Section 353(e) states that a laboratory may be accredited for purposes of obtaining a CLIA certificate if the laboratory meets the standards of an approved accreditation organization and authorizes the organization to submit to the Secretary, State agency, or HCFA agent as the Secretary designates, records or other information the Secretary requires.

The Secretary may approve a private, nonprofit organization or State licensure agency to be an accreditation organization for the accreditation of laboratories if the accreditation organization or State licensure agency—

- Agrees to inspect a laboratory for purposes of accreditation with the frequency the Secretary determines, using inspectors qualified to evaluate the methodologies used by the laboratories in performing laboratory examinations and other procedures;
- Applies standards equal to or more stringent than the standards issued by the Secretary in determining whether or not to accredit a laboratory;
- Provides adequate assurance that the standards of the accreditation organization or State licensure agency continue to be met by the laboratory;
- Agrees to submit to the Secretary the name of any laboratory accredited by the organization or agency that has had its accreditation denied, suspended, withdrawn, or revoked or which has had any other action taken against it by the accrediting organization or State licensure agency, within 30 days of the action taken;
- Agrees to notify the Secretary at least 30 days before it changes its standards; and
- Agrees to notify each laboratory accredited by the organization within 10 days of a decision by the Secretary to withdraw his or her approval of the accreditation organization or State licensure agency.

CLIA '88 requires the Secretary to promulgate criteria and procedures for approving an accreditation organization or State licensure agency and for withdrawing approval if he determines that the accreditation organization does not meet our requirements.

Under CLIA '88, if the Secretary withdraws the approval of an accreditation organization, the certificate of any laboratory accredited by the organization continues in effect for 60 days after the laboratory receives notification of the withdrawal of the approval. The Secretary may extend the period for an additional 60 days for a laboratory if he or she determines that the laboratory submitted to HCFA in a timely manner an application for accreditation by another accreditation organization or an application for a CLIA certificate to the State agency or other HCFA agent.

Under CLIA '88, if an accreditation organization withdraws or revokes the accreditation of a laboratory, the certificate of the laboratory will continue in effect—

- For 45 days after the laboratory receives notice of the withdrawal or revocation of the accreditation, or
- Until the effective date of any suspension, revocation, or limitation taken by the Secretary under section 353(i) of the PHSA.

The Secretary is to evaluate annually the performance of each approved accreditation organization or licensure agency by inspecting a sufficient number of the laboratories accredited by the organization or agency to allow a reasonable estimate of the performance of that organization, and by other means he or she determines appropriate.

The Secretary is to prepare and submit annually, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that describes the results of the evaluations conducted under section 353(e)(2)(D) of the PHSA.

Proposed Revisions to the Regulations

We propose to add a new subpart E to 42 CFR part 493 to implement section 353 (e) and (p) of the PHSA as amended by CLIA '88. We would institute the same requirements for both private accreditation organizations and for State licensure agencies. Although the statute does not require us to judge both by the same standards, we do not believe that it is reasonable to use different standards, since both function to assure us that laboratories meet statutory requirements for health and safety.

Currently CAP and New York State are the only accreditation organization and State licensure agency whose laboratories are deemed to meet CLIA requirements. When these proposed regulations and other proposed regulations implementing CLIA '88 become effective, the accreditation organizations and State licensure agencies currently deemed to meet the requirements will be reviewed and, if those organizations' accrediting and licensing requirements equal or exceed those required by CLIA, laboratories they accredit will continue to be deemed to meet CLIA requirements.

A. Requirements for Accreditation and Licensure Organizations

We would include a general section, § 493.501, that would state the basic premise of the subpart: If a private nonprofit accreditation organization or State licensure agency for laboratories provides reasonable assurance to us that it requires the laboratories it accredits or licenses to meet requirements equal to or more stringent

than CLIA conditions, we may deem its laboratories to be in compliance with CLIA condition-level requirements. In new § 493.507, we require that the laboratories be subject to validation inspections (surveys) performed by HCFA or its designee (see discussion on § 493.507) and authorize their accrediting organization or licensure agency to release to HCFA such records and reports as required by this regulation.

We would require a laboratory deemed under new Subpart E to meet CLIA requirements to authorize its accreditation organization or licensure agency to submit to us annually a copy of the laboratory's quarterly or semi-annual (if applicable) proficiency testing results for the purpose of establishing a system to make the proficiency testing results available, on a reasonable basis, upon request as required by section 353(f)(3) of CLIA '88. In the case of a deemed approved laboratory's failure to achieve a satisfactory proficiency testing result, the laboratory would be required to authorize its accreditation organization or State licensure agency to submit a report of test results to HCFA within 30 days notice of the failure. We would require submission of these results because section 353(f)(3) of CLIA '88 requires that every laboratory issued a CLIA certificate must participate successfully in a proficiency testing program acceptable to HCFA for each specialty and subspecialty of test it performs. Refusal to do so would result in the laboratory's loss of deemed status and could possibly lead to suspension, revocation or limitation of the laboratory's CLIA certification if an inspection by a HCFA agent or the State survey agency finds the laboratory's performance level warrants any of these actions.

In new § 493.504 we would require that if an accreditation organization or licensure agency revokes or withdraws its accreditation or licensure from a laboratory, the certification would continue in effect until: (1) The effective date of a HCFA action to revoke, suspend, or limit a CLIA certification or (2) 45 days after the laboratory receives notice of withdrawal or revocation of accreditation or licensure as required by the statute.

B. Definitions

In § 493.502, we would define the following terms:

"Approved laboratory accreditation organization" would be defined as a private, nonprofit accreditation organization or State licensure agency that has formally applied for and received HCFA's approval based on the organization's compliance with Federal requirements in accordance with this subpart.

"CLIA conditions" would mean the requirements laboratories must meet to receive a CLIA certificate.

"HCFA agent" would mean an entity other than the State survey agency with which HCFA may contract to perform inspections and review the functions of laboratories. A HCFA agent may be a professional organization, another component within HHS, or any other group which HCFA approves for this purpose.

"Rate of disparity" would mean the percent of validation inspections in which HCFA, the State survey agency or HCFA agent finds noncompliance with one or more conditions, but no comparable condition-level deficiencies were cited by the accreditation organization or licensure agency.

"State survey agency" would mean the State health agency or other appropriate State or local agency used by HCFA to perform inspections and review functions under CLIA.

"Substantial allegation" would mean a complaint from any of a variety of sources (including complaints submitted in person, by telephone, through written correspondence, or in newspaper or magazine articles), that reflects on the health and safety of individuals served by a laboratory and raises doubts as to a laboratory's compliance with any CLIA condition.

"Validation review period" would be the period after the end of a fiscal year during which HCFA conducts a review of the validation surveys for the previous fiscal year.

We would also revise the definition in § 493.2 of "accredited laboratory" to delete the names of currently approved accreditation organizations and licensure agencies and to state simply that an accredited laboratory is one approved by an accreditation organization or licensure agency meeting the requirements of subpart E.

C. Approved Laboratory Accreditation and State Licensure Programs

We recently published a proposed rule (55 FR 20896, May 21, 1990) identifying requirements that laboratories would need to meet to satisfy CLIA '88 requirements. Once those requirements are included in an effective final rule we intend to add by this proposed rule a new section to subpart E to indicate that laboratories accredited by or licensed by specified entities would be deemed to meet all CLIA conditions, with the exception of any requirement under section 353 of the PHSA that HCFA identifies in the future as being more stringent or more precise than the requirements of the accreditation organization or licensure agency. The laboratory would not initially be deemed to meet the more stringent requirement(s) but would have to demonstrate that it meets these requirements.

We intend to publish a notice in the **Federal Register** containing the name of each approved accreditation organization or licensure agency and our basis for granting deeming authority to that accreditation or licensure organization. The notice would describe how the organization provides reasonable assurance to HCFA that laboratories accredited or licensed by the organization meet CLIA requirements.

D. Federal Review of Accreditation Organizations and Licensure Agencies

We would add § 493.506, outlining the process for Federal review and approval of accreditation organization and licensure agencies. The regulations at § 493.506 would specify that HCFA's review of a private, nonprofit accreditation organization or State licensure agency will include, but not be limited to, an analysis of the following items.

HCFA will evaluate the equivalency of the requirements of the accreditation organization or State licensure agency to comparable HCFA requirements. In order to receive HCFA approval, each accreditation organization or licensure agency must be able to demonstrate adequately that each of its requirements is as stringent as those of HCFA. We particularly invite comments regarding how accreditation organizations and State licensure agencies might be able to demonstrate that certain standards, although different from the Federal approach, are indeed equally as stringent as Federal CLIA requirements in terms of protecting individuals served by the laboratory. We also invite comments on the feasibility of the development of a comprehensive crosswalk by which to compare the standards of an accreditation organization or licensure agency to those of HCFA. We will perform a detailed review of the accreditation or licensure organization's inspection process. Finally, we will assure that the organization's agreement provides for furnishing required services.

In reviewing the accreditation or licensure organization's inspection process, we will evaluate the following items:

- The composition of the inspection team, qualifications of the surveyors,

and the ability of the organization to provide continuing education to surveyors in order to insure that the accreditation or licensure organization employs qualified surveyors who are able to perform accurate inspections, as required by section 353(e)(2)(A)(i) of the PHSA;

• The comparability of the comprehensive inspection and complaint inspection procedures of the accreditation organization or licensure agency, including those for routine inspection frequency as required by section 353(e)(2)(A)(i) of the PHSA, to those of HCFA;

• The organization's or agency's procedures for monitoring laboratories to assure that the laboratories continue to meet its standards, as required by section 353(e)(2)(A)(iii) of the PHSA;

• The ability of the organization or agency to provide HCFA the necessary reports in electronic data in ASCII-comparable code, which can be electronically transmitted into the HCFA computer network, thus eliminating excess paperwork and staff time and facilitating the effective validation and assessment of the organization's inspection process as required at 353(e)(2)(D) of the PHSA.

• The ability of the organization or agency to provide to HCFA annually, except as specified at § 493.506(c)(4)(ii), the results of each laboratory's quarterly or semi-annual (if applicable) proficiency testing, and any other information pertinent to the evaluation of the performance of each approved accreditation organization or licensure agency, via electronic data in ASCII-comparable code, so that the Secretary may meet the annual reporting requirement described at 353(e)(3) of the PHSA and evaluation requirement at 353(e)(2)(D) of the PHSA.

• The ability of the organization to communicate to HCFA as provided at § 493.506(b)(6), via electronic data in ASCII-comparable code, the failure of any laboratory to achieve satisfactory results in proficiency testing within 30 days of the notice to the laboratory of such failure. (We recognize the fact that not all accreditation organizations or State licensure agencies are direct providers of proficiency testing services.) This provision is necessary for several reasons. First, section 353(f)(3)(F) of the PHSA provides that the Secretary shall make the results of the proficiency testing programs available on a reasonable basis, upon request of any person. We feel the HCFA should be informed in a timely manner of a laboratory's failure to achieve satisfactory results in proficiency testing and we feel that within 30 days is timely. Second, it alerts HCFA that a particular laboratory may have its accreditation removed and therefore is a likely candidate for suspension, revocation or limitation of its CLIA certificate. Third, in the case of a laboratory that performs unsuccessfully for one or more analytes or unsuccessfully for an overall testing event as defined in Subpart H of Part 493, resulting in suspension, revocation, or limitation of the certificate, a hearing in non-immediate and serious threat cases has to be granted before the action. Advance notice to HCFA of that possibility would permit HCFA to notify the Office of Hearings and Appeals of any pending sanction. (Appeals procedures will be proposed in another document to be set forth at § 493.1844.) Fourth, failure of a laboratory to achieve satisfactory test results in proficiency testing must result, at the very least, in limitation of the CLIA certificate with respect to a specific specialty or subspecialty of tests. Such an action taken by the accreditation organization or licensure agency requires notification to HCFA 30 days after the action pursuant to section 353(e)(2)(A)(iv) of the PHSA. The 30-day notification of failure to meet proficiency testing could be incorporated into the statute's required notification to HCFA by the accrediting organization of its action to deny, suspend, withdraw or revoke a laboratory's accreditation or licensure.

• The ability of the organization or agency to provide adequate funding to perform required inspections.

In assuring that the organization's or agency's agreement provides for furnishing all required services, we would verify that it contained the following items. The organization or agency agrees to provide HCFA—

• As required by section 353(e)(2)(A)(iv) of the PHSA, within 30 days of the action taken, the name of any laboratory accredited or licensed by the organization that has had its accreditation or licensure denied, suspended, withdrawn, or revoked, or that has had any other adverse action taken against it by the organization. (This is not the same as suspension or revocation of a CLIA certificate, which are actions taken by HCFA after a laboratory's accreditation or license is suspended, withdrawn or revoked by the accreditation organization or licensure agency, if, after an inspection by the survey agency, the laboratory is found out of compliance with CLIA conditions and remains out of compliance after a reasonable opportunity to correct.)

• As required by section 353 of the PHSA, documentation that each laboratory accredited or licensed by the organization or agency is notified within 10 days of HCFA's withdrawal of the recognition of the organization's deeming authority;

• An inspection schedule to facilitate the conducting of HCFA validation inspections; and

• Annually, facility-specific data to include but not be limited to the results of the laboratory's quarterly or semi-annual (if applicable) proficiency testing, except for the proficiency testing results of a laboratory that failed to achieve satisfactory results within 30 days of a notice of failure. This report could be incorporated within the report of the action taken by the accreditation organization or licensure agency resulting from the failure to achieve satisfactory proficiency testing results.

• The regulations at § 493.501, would further provide for HCFA to publish a notice in the **Federal Register** containing the names of any private, nonprofit accreditation organization or State licensure agencies to which HCFA has given deeming authority, the basis for the granting of deeming authority to each organization, and a description of how each organization provides to HCFA reasonable assurance that laboratories accredited or licensed by each organization or agency meet CLIA requirements.

E. Validation Inspections.

1. Basis for Inspection

New § 493.507 would specify that we may require an inspection of an accredited laboratory by HCFA, its agents, or the State survey agency, in order to validate the process used by the laboratory's accreditation organization. We would inspect laboratories on a random-sample basis or in response to substantial allegations of one or more deficiencies. Inspections conducted on a sample basis would be comprehensive, would address all CLIA conditions, and would be sufficient in number to allow a reasonable evaluation of the performance of each accreditation. Inspections conducted in response to a substantial allegation of noncompliance would focus on the condition or conditions that HCFA determines is (are) related to the allegation. If the State survey agency or other HCFA agent substantiates an allegation and HCFA determines that the laboratory is out of compliance with any CLIA condition, the State survey agency or other HCFA agent would conduct a full CLIA inspection.

Section 353(e)(2)(B) of the PHSA states that the Secretary shall

promulgate criteria and procedures for approving an accreditation organization and for withdrawing approval of organizations that do no meet the requirements of Section 353(e)(2)(A) of PHSA. The validation process we would establish would be the mechanism by which the determination is made that the accreditation organization does not meet the requirements of section 353(e)(2)(A).

2. Effect of Selection for Inspection

The regulations at § 493.507(b) would further specify the requirements that a laboratory selected for a validation inspection must meet. The requirements would be consistent with the Secretary's statutory obligation to promullgate procedures for withdrawing the approval of an accreditation organization or State licensure agency, and consistent with validation procedures applicable to other accredited providers and suppliers participating in the Medicare or Medicaid programs.

We propose that a laboratory selected for a validation inspection must:

- Authorize its accreditation organization or licensure agency to release to HCFA, the State survey agency or HCFA agent, a copy of the laboratory's most recent full accreditation or licensure inspection, and any subsequent partial inspection;
- Authorize the validation inspection to take place at the facility; and
- Authorize HCFA, the State survey agency or other HCFA agent to monitor the correction of any deficiencies found through the validation inspection, to insure that they are corrected in a timely manner.

We would require a copy of the laboratory's full inspection and any subsequent partial inspections for the purpose of comparing the findings of the accreditation organization or State licensure agency with those that HCFA may identify during the validation inspection. (The accreditation inspection would only be disclosable if it is related to an enforcement action taken by the Secretary). This provision is consistent with Medicare policy based on Section 1865(a) of the Act, which applies to laboratories that participate in the Medicare program. These same Medicare approved laboratories also require a CLIA certificate. Because these laboratories could be accredited under the Medicare or CLIA program, we believe that it is part of the Secretary's responsibility as provided at section 1102 of the Social Security Act, which requires the Secretary to publish rules necessary for the efficient administration of the program to establish consistent policies and promote consistent treatment for the same facility in different programs. The only exception to this approach would be if the nature of the program(s) precludes such consistency. We have identified no aspect of either program which warrants the development of inconsistent policies.

3. Refusal to Cooperate with Inspection

We would additionally require that if a laboratory selected for a validation inspection fails to provide the necessary authorizations for the validation inspection to be performed, it would no longer be deemed to meet CLIA conditions. This is because section 353(e)(1)(B) of the PHSA states that a laboratory may be accredited (deemed to meet CLIA conditions) if it, among other factors, authorizes the accreditation organization to submit to the Secretary required information. Failure to cooperate with the survey would either directly or indirectly result in a failure to provide necessary information to the Secretary and would result in a loss of deemed status. Instead, it would be subject to full review by HCFA, the State survey agency or other HCFA agent in accordance with 42 CFR Part 493, Subpart N, and might also be subject to suspension, revocation, or limitation of its CLIA certificate as required by law and in accordance with § 493.1706 for failure to meet the requirements in part 493.

4. Consequences of the Finding of Noncompliance

The regulations at § 493.507(d) would state that if a validation inspection results in a finding that a laboratory is out of compliance with one or more CLIA conditions, the laboratory would no longer be deemed to be certified under CLIA. Specifically, the laboratory would then be subject to the requirements at 42 CFR part 493 applied to laboratories that are not deemed under CLIA, and to a full review by HCFA, the State survey agency or other HCFA agent in accordance with 42 CFR part 493, Subpart N. This is consistent with current HCFA policy concerning hospitals accredited by JCAHO or AOA and that are out of compliance with one or more Medicare conditions of participation. As required by statute, the laboratory may also be subject to suspension, revocation, or limitation of its CLIA certificate as specified at § 493.1706.

5. Reinstatement

The regulations at § 493.507(e) would specify that an accredited or State licensed laboratory would once again be deemed to meet CLIA conditions only if it withdraws any prior refusal to authorize its accreditation organization or licensure agency to release to HCFA a copy of its current accreditation or licensure inspection or the results of its quarterly or semi-annual (if applicable) proficiency testing, or withdraws any prior refusal to allow a validation inspection. Furthermore, HCFA, the survey agency, or other HCFA agent, via an onsite inspection and review of documentation, must find the laboratory in compliance with all CLIA conditions.

F. Removal of HCFA Approval of Accreditation Organization's or Licensure Agency's Deeming Authority

The regulations at §§ 493.509 and 493.511 would set forth specific criteria and procedures for removing the approval of a private, nonprofit accreditation organization or State licensure agency. The criteria and procedures would call for a review of the accreditation organization's or licensure agency's requirements to verify their comparability with HCFA and CLIA '88 requirements. We would compare the results of the validation inspection with the most recent accreditation inspection to determine whether any disparities exist.

We would perform a deeming authority review if one is warranted by our findings with respect to the comparability of requirements or the rate of disparity of findings. If our review indicates variance with our requirements, we may grant a conditional approval. If it indicates poor performance, we may provide for a probationary period of up to one year. At the end of the probationary period, the organization may either keep its HCFA approval, or its approval may be withdrawn. If the deeming authority of an organization is no longer recognized, we will issue a notice in the Federal Register and allow accredited providers and suppliers opportunity to obtain HCFA certification. This process is more fully discussed below.

1. Comparability Review (§ 493.509(a))

We would compare the equivalency of an accreditation organization's accreditation requirements or a State licensure agency's licensing requirements to the comparable HCFA requirements if we promulgate new requirements or if an accrediting or licensing organization proposes to adopt new requirements. This would implement section 353(e)(2)(A)(ii) of the PHSA.

We would identify accreditation organizations and State licensure agencies whose procedures and requirements are not comparable with those of HCFA, in order to safeguard physicians, laboratories, and the general public.

2. Validation Review (§ 493.509(b))

Following the end of a validation review period, we would identify any accreditation organizations or licensure agencies for which either or both of the following situations exist: (1) Validation inspection results indicate a rate of disparity of 20 percent or more between certifications of the accreditation organization or licensure agency and certifications of HCFA, the State survey agency or other HCFA agent; and (2) Validation inspection results over a period of two or more years indicate a pattern of increasing disparity between the certifications of the accreditation organization or licensure agency and certifications of HCFA, the State survey agency or other HCFA agent.

We believe 20 percent is a significant rate of disparity based on our experience with the granting of deeming authority for hospitals to the JCAHO. However, we are soliciting public comment regarding use of the 20 percent rate of disparity.

The regulations would specify that if the validation review finds that an accreditation organization or licensure agency is not meeting the requirements of this regulation, we would inform the organization in writing that its approval may be in jeopardy. The notice would contain the following information:

- A statement identifying the CLIA requirements for which disparity was found, and the instance, rate, and patterns (if any) of the disparity;
- An explanation of the validation review on which our decision is based;
- A description of the procedures available for the organization to follow to explain or refute the findings of the validation review (that is, who to contact and the timeframe for doing so); and
- A description of possible actions that may be imposed based on the findings of the validation review.

3. Deeming Authority Review (§ 493.511)

We would conduct a deeming authority review of an accreditation organization or licensure agency if the comparability or validation review procedures findings of lack of comparability between requirements or dispartiy between accreditation and validation inspection results. We would review, as appropriate, the comparability of accreditation organization or State licensure requirements to ours and the procedures for inspecting and monitoring laboratories to reevaluate if the accreditation organization or licensure agency continues to meet Federal criteria.

In § 493.511(b) and (c) we propose that if we determine, following the deeming authority review, that the accreditation organization or licensure agency had failed to adopt requirements comparable to ours, the organization may be given a conditional approval of its deeming authority for a probationary period of 6 months during which it can adopt comparable requirements.

If we determine, following the deeming authority review, that the rate of disparity identified during the validation review indicates poor performance by the accrediting organization or licensure agency, we would take a number of actions. First, HCFA may provide the accreditation organization or licensure agency conditional approval of its deeming authority for a probationary period of up to 1 year (whether or not there are also noncomparable requirements) effective 30 days following the date of the determination. We also would require the accreditation organization or licensure agency to release to us any facility-specific data we require for continued monitoring. We would require the accreditation organization or licensure agency to provide us with an inspection schedule for the purpose of intermittent onsite monitoring during the probationary period of the organization's inspection process by HCFA staff, State surveyors, HCFA agents, or all three.

The difference in the probationary periods would be based on the amounts of time we feel are necessary to correct disparity due to lack of comparability between requirements or disparity caused by poor performance on the part of the accreditation organization of State licensure agency. If the disparity is due to the lack of comparability between requirements a 6-month period (at the longest) should be sufficient to establish, in written form, equivalent requirements. This time period would exclude the time necessary to enforce those requirements. On the other hand, if the rate of disparity is caused by poor performance in general on the part of the accreditation organization of State licensure agency, the exact cause may be more difficult to discern. It would therefore take HCFA longer to validate through validation surveys that performance has improved. Specifically, the disparity might be due to inappropriate inspection team composition, poor training, improper inspection procedures, or other factors, which take time to isolate and identify, before the correction of those factors can be accomplished. Because the actual correction requires additional time, a one year (at the longest) probationary period would be established in the case of an excessive rate of disparity due to poor performance. We may require additional validation inspections of laboratories as part of the process of monitoring the correction process on the part of the accreditation organization or licensure agency. This is because we cannot determine if the rate of disparity has been reduced without validation inspection results.

4. Action Following the Probationary Period

The regulations would further state that within 60 days after the end of any probationary period, we would make a final determination as to whether or not an accreditation organization or licensure agency continues to meet the criteria at § 493.506 and issue an appropriate notice (including reasons for this determination) to the accreditation organization or licensure agency. This determination would be based on one or more of the following:

- The evaluation of the findings from the final determination review;
- The evaluation of facility-specific data and related information;
- The evaluation of the accreditation organization's or licensure agency's surveyors in term of qualifications, continuing education, composition of the inspection team, and similar items;
- The evaluation of inspection procedures;
- The accreditation or licensure requirements.

The regulation would specify that if the accreditation organization or licensure agency has not made acceptable improvements during the probationary period, we may remove recognition of deeming authority. HCFA review or action would not in any way affect or limit the conducting of any validation inspection. We would publish in the **Federal Register** a notice containing a justification of the basic for removal of deeming authority from an accreditation organization or licensure agency.

5. Continuation of Validity of CLIA Certificate (§ 493.511(g))

The regulations would further provide for the CLIA certificate of affected laboratories to continue in effect for 60 days after the laboratory receives notification of its accreditation

organization's or licensure agency's withdrawal of approval in order to give us time to inspect to see if the laboratory meets CLIA requirements. We may extend this period for an additional 60 days for a laboratory if the laboratory submits a timely application for accreditation by another approved accreditation organization or licensure agency or to HCFA for a CLIA certificate so that the laboratory's compliance with CLIA conditions can be determined.

G. Report

HCFA proposes to prepare and submit a report annually to Congress that describes the results of the random-sample validation inspection conducted under § 493.507 and the reviews conducted under § 493.509. The report would include the name of any accreditation organization or licensure agency that is given conditional approval during a probationary period by HCFA.

H. Technical Revisions

We would remove § 493.1701(b)(4) and § 493.1708 as they would be superseded by the new subpart E.

Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any proposed rule that meets one of the E.O. 12291 criteria for a "major rule"; that is, that will be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Currently there are three national accreditation organizations (AOA, CAP and JCAHO) and one State licensure agency (New York State). We have also identified a few organizations and several States which are currently conducting proficiency testing. We estimate that there are approximately 25,000 to 30,000 laboratories that are accredited or licensed by these organizations.

In the preamble of another proposed regulation, which would implement the "Clinical Laboratory Improvement Amendments of 1988; Fee Collection", we have proposed a schedule of fees to charge laboratories to cover the costs of the required biennial inspections. However, accreditation organizations and licensure agencies under the provisions proposed by this rule would be able to set their own fees for conducting such inspections. We are interested in receiving comments regarding the extent to which new requirements imposed by this rule and the proposed rule, "Regulations Implementing the Clinical Laboratory Improvement Amendments of 1988 (CLIA) '88), (55 FR 20896, May 21, 1990), would affect pricing schemes of accreditation organizations.

Laboratories currently accredited by an accreditation organization or licensure agency may expect an increase in costs as a result of the implementation of this proposed regulation; however, we believe the additional costs would not be significantly higher than their current accreditation inspection costs. Based on these assumptions we believe this rule would not constitute a major rule under E.O. 12291. Thus, a regulatory impact analysis under E.O. 12291 is not required. In addition, we believe this rule satisfies the requirements for promulgating new regulations set forth in section 2 of the E.O. 12291.

B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a regulation would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all private, nonprofit accreditation organizations and laboratories as small entities. Individuals and States are not included in the definition of a small entity.

We do not know how many accreditation organizations or licensure agencies would meet or continue to meet HCFA's deeming authority requirements; therefore, we are soliciting comments to determine the approximate number of organizations that would participate and have the potential of meeting our deeming authority requirements listed in this proposed regulation.

There are approximately 12,000 currently Federally-regulated laboratories and there may be anywhere from 300,000 to 600,000 laboratories nationwide that will be subject to CLIA '88. However, we do not know how many of these laboratories would choose to become accredited by an accreditation organization or licensure agency.

We believe that all the identified accreditation organizations and licensure agencies will be able to meet our proposed standards to deem laboratories to meet standards greater than or equal to CLIA requirements. We expect these organizations to incur some costs in order to meet all of our requirements; however, the costs are expected to be minimal for these organizations since most currently conduct proficiency testing, conduct inspections on the laboratories they accredit or license, have the necessary automated equipment to submit reports electronically and have qualified inspection personnel. We also believe tha laboratories which are accredited by these accreditation and licensure agencies would not be significantly affected by the provisions of this rule since most are already required to submit to some type of proficiency testing and undergo periodic inspections; therefore, increased costs to laboratories under these provisions are also expected to be minimal.

We believe that this proposed rule would benefit patients since accreditation organizations and licensure agencies would be continually monitored to ensure that their inspections yield valid conclusions about the accuracy of test results. All laboratories, whether or not the laboratory is accredited or licensed, would have to be certified and recertified every two years. The fees for accreditation and certification will be proposed in another regulation implementing the "Clinical Laboratory Improvement Amendments; Fee Collection". The accreditation fees would cover any administrative costs for issuing accreditation certificates, including a fee to cover the costs of the random inspections.

We have determined and the Secretary certifies that this proposed rule would not have a significant effect on a substantial number of small entities; therefore, a regulatory flexibility analysis under the RFA is not required.

C. Rural Impact Statement

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed rule may have a singificant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hosptial as a hospital that is

located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing a rural impact statement since we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on the operations of a substantial number of small rural hospitals.

Paperwork Burden

Section 493.506 of the proposed rule contains information collection requirements that are subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official whose name appears in the ADDRESS section of the preamble.

Response to Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "Date" section of this preamble, and, if we proceed with a final rule, we will respond to the comments in the preamble of that rule.

List of Subjects in 42 CFR Part 493

Laboratories, Medicare, Medicaid, Health facilities, Reporting and recordkeeping requirements.

42 CFR part 493 would be amended as set forth below:

PART 493—LABORATORY REQUIREMENTS

1. The authority citation for part 493 continues to read as follows:

Authority: Sec. 353 of the Public Health Service Act and secs. 1102, 1861(e), the sentence following 1861(s)(11), 1861(s)(12) and 1861(s)(13) of the Social Security Act (42 U.S.C. 263a, 1302, the sentence following sec. 1395x(s)(11), and sec. 1395x(s)(12) and (s)(13).)

2. The table of contents for part 493 is amended by adding a new subpart E to read as follows:

PART 493—LABORATORY REQUIREMENTS

* * * * *

Subpart E—Accreditation by a Private, Nonprofit Accreditation Organization or a State Licensure Agency

§ 493.2 [Amended]

3. Section 493.2 is amended by revising the definition of "accredited laboratory" to read as follows:

§ 493.2 Definitions.

Accredited laboratory means a laboratory accredited by a private, nonprofit accreditation organization or licensed by a State licensure agency meeting the requirements of, and approved by HCFA in accordance with, Subpart E of this part.

* * * * *

4. A new subpart E is added to read as follows:

§ 493.501 General requirements.

(a) *Deemed status.* HCFA may deem a laboratory to meet all the CLIA program requirements of this part if—

(1) A private, nonprofit accreditation organization or State licensure agency for laboratories—

(i) Provides reasonable assurance to HCFA that it requires the laboratories it accredits or licenses to meet all of the CLIA program requirements of this part; and

(ii) Meets the requirements of § 493.506 of this subpart; and

(2) The laboratory accredited by a private, nonprofit accreditation organization or State licensure agency—

(i) Authorizes its accreditation organization or licensure agency to release to HCFA all records and information required by these regulations; and

(ii) Permits inspection as required by these regulations.

(b) *Publication of names of approved accreditation organizations State licensure agencies.* HCFA publishes a notice in the **Federal Register** when it determines an accreditation organization or State licensure agency is deemed to meet CLIA requirements under paragraph (a) of this section. The notice—

(1) Names the accreditation organization or State licensure agency;

(2) Describes the basis for granting deeming authority to the accreditation organization or State licensure agency; and

(3) Describes how the accreditation organization or State licensure agency provides reasonable assurance to HCFA that laboratories accredited or licensed by the organization or agency meet CLIA requirements.

§ 493.502 Definitions.

Approved laboratory accreditation organization or State licensure agency is a private, nonprofit accreditation organization or State licensure agency that has formally applied for and received HCFA's approval based on the organization's compliance with this subpart.

CLIA conditions means the requirements laboratories must meet to be granted a CLIA certificate.

HCFA agent means an enitity other than the State survey agency with which HCFA may contract to perform inspections and review the functions of laboratories. A HCFA agent may be a professional organization, another component within HHS, or any other group HCFA approves for this purpose.

Rate of disparity means the percent of validation inspections where HCFA, the State survey agency or other HCFA agent finds noncompliance with one or more conditions, but no comparable condition level deficiencies were cited by the accreditation organization or licensure agency.

Example: Assume the State survey agency performs 200 validation inspections during a validation review period and finds that 60 of the 200 laboratories had one or more conditions of participation out of compliance. HCFA reviews the validation and accreditation inspections of the validated laboratories and determines that the accrediting organization or State licensure found no comparable condition level deficiencies in 38 of the 60 laboratories and it is reasonable to assume that the deficiencies were present at the time of the accrediting or State licensing organization's survey. Thirty-eight divided by 200 equals a 19 percent rate of disparity.

State survey agency means the State health agency or other appropriate State or local agency used by HCFA to perform inspections.

Substantial allegation means a complaint from any of a variety of sources (including complaints submitted in person, by telephone, through written correspondence, or in newspaper or magazine articles), that reflects on the

health and safety of individuals served by a laboratory, or the general public, and raises doubts as to a laboratory's compliance with any CLIA condition.

Validation review period is the period after the end of a fiscal year during which HCFA conducts a review of the validation inspections for the previous fiscal year.

§ 493.503 Proficiency testing requirements of deemed laboratories.

(a) *General.* A laboratory deemed to meet CLIA program requirements must meet the proficiency testing requirements of this part.

(b) *Reports.* (1) A laboratory deemed to meet CLIA program requirements must authorize its accreditation organization or State licensure agency to furnish to HCFA on an annual basis the results of the laboratory's quarterly or semi-annual (as applicable) proficiency testing for the purpose of establishing a system to make the proficiency testing results available, on a reasonable basis, upon request.

(2) A laboratory that refuses to authorize the release of its proficiency testing will no longer be deemed to meet the CLIA conditions and will be subject to full review by HCFA, the State survey agency or other HCFA agent in accordance with § 493.1603 of this chapter and may be subject to suspension, revocation or limitation of the laboratory's CLIA certificate under § 493.1706 of this part.

(3) In the case of the deemed approved laboratory's failure to achieve successful performance in an approved proficiency testing program as required in subpart H, the laboratory must authorize its accreditation organization or State licensure agency to submit a report of test results to HCFA within 30 days of the notice of the failure.

§ 493.504 Revocation of accreditation or State licensure.

After a private, nonprofit accreditation organization or State licensure agency withdraws or revokes its accreditation or licensure of a laboratory, the CLIA certificate required by § 493.1704 will continue in effect until:

(a) 45 days after the laboratory receives notice of the withdrawal or revocation of the accreditation or licensure; or

(b) The effective date of any action taken by HCFA.

§ 493.506 Federal review and initial approval of private, nonprofit accreditation organizations and State licensure agencies.

HCFA's review of a private, nonprofit accreditation organization or State licensure agency includes, but is not necessarily limited to, an evaluation of the following:

(a) The equivalency of the accreditation organization's requirements or the State's licensure agency's requirements for laboratories to the comparable HCFA requirements for laboratories;

(b) The accreditation organization's or licensure agency's inspection process to determine—

(1) The composition of the inspection team, qualifications of the inspectors, and the ability of the organization to provide continuing education and training to inspectors;

(2) The comparability of the full inspection and complaint inspection procedures to those of HCFA, including inspection frequency, and the ability to investigate complaints against accredited or licensed facilities;

(3) The organization's procedures for monitoring laboratories found by the organization to be out of compliance with its requirements. (These monitoring procedures are to be used only when the accreditation organization or licensure agency identifies noncompliance. If noncompliance is identified through validation inspections, HCFA, the State survey agency or other HCFA agent monitors corrections as authorized at § 493.507(b)(3) of this subpart);

(4) The ability of the organization or agency to provide HCFA with electronic data and reports in ASCII-comparable code that are necessary for effective validation and assessment of the organization's inspection process;

(5) The ability of the organization or agency to provide HCFA on an annual basis the results of the laboratory's quarterly or semi-annual (as applicable) proficiency testing via electronic data in ASCII-comparable code;

(6) The ability of the organization or agency to provide HCFA with electronic data in ASCII-comparable code on the failure of the laboratory to achieve satisfactory results in proficiency testing within 30 days of notice of such failure;

(7) The adequacy of staff and other resources;

(8) The organization's or agency's ability to provide adequate funding for performing required inspections; and

(c) The organization's or agency's agreement with HCFA to:

(1) Notify HCFA of any laboratory accredited or licensed by the organization that has had its accreditation or license denied, suspended, withdrawn, or revoked or that has had any other adverse action taken against it by the organization within 30 days of the action taken;

(2) Notify each laboratory accredited or licensed by the organization within 10 days of HCFA's withdrawal of recognition of the organization's deeming authority;

(3) Provide HCFA with an inspection schedule for the purpose of conducting onsite validation inspections; and

(4) Provide HCFA, the State survey agency or other HCFA agent with any facility-specific data to include but not be limited to the following:

(i) The result of the laboratory's quarterly or semi-annual (as applicable) proficiency testing on an annual basis;

(ii) The results of a laboratory's failure to achieve successful performance in an approved proficiency testing program for each analyse and each speciality and subspecialty of tests performed by the laboratory, as required in Subpart H.

(5) Provide HCFA written notification at least 30 days in advance of the effective date of any proposed changes in its requirements.

§ 493.507 Validation inspections.

(a) *Basis for inspection.* HCFA may require an inspection of an accredited laboratory to validate its organization's accreditation or licensure process. These inspections may be conducted on a selective-sample basis or in response to substantial allegations of deficiencies.

(1) When conducted on a selective sample basis, the inspection is comprehensive, addressing all CLIA conditions, and the number of laboratories sampled are sufficient in number to allow a reasonable estimate of the performance of each accreditation or licensure organization.

(2) When conducted in response to a substantial allegation, HCFA, the State survey agency or other HCFA agent inspects for any condition or conditions that HCFA determines is related to the allegation. If the surveying agency substantiates a deficiency and determines that the laboratory is out of compliance with any CLIA condition, HCFA, the State survey agency or other HCFA agent conducts a full CLIA inspection.

(b) *Effect of selection for inspection.* A laboratory selected for a validation inspection must:

(1) Authorize its accreditation organization or licensure agency to release to HCFA, the State survey agency or HCFA agent, on a confidential basis, a copy of the laboratory's most recent full accreditation or licensure inspection and any subsequent partial inspection and the results of the laboratory's quarterly or semi-annual (as applicable) proficiency testing. HCFA is not required to keep confidential accreditation and licensure

inspection reports and the results of the quarterly or semi-annual proficiency testing;

(2) Authorize the validation inspection to take place; and

(3) Authorize HCFA, the State survey agency, or other HCFA agent to monitor the correction of any deficiencies found through the validation inspection.

(c) *Refusal to cooperate with the inspection.* If a laboratory selected for a validation inspection fails to comply with the requirements specified in paragraph (b) of this section, it will no longer be deemed to meet the CLIA conditions but will be subject to full review by the State survey agency or other HCFA agent in accordance with Subpart O of this subchapter and may be subject to suspension, revocation, or limitation of the laboratory's CLIA certificate under § 493.1706 of this chapter.

(d) *Consequences of the finding of noncompliance.* If a validation inspection results in a finding that the laboratory is out of compliance with one or more CLIA conditions, the laboratory is no longer deemed to meet the CLIA conditions. The laboratory is subject to the requirements applied to laboratories not deemed to meet the CLIA conditions that are found out of compliance following a State agency inspection under Subpart N of this subchapter and to full review by a State agency or other HCFA agent in accordance with subpart N of this subchapter. The laboratory may be subject to suspension, revocation or limitation of its CLIA certificate under Subpart O of this part.

(e) *Reinstatement.* An accredited or licensed laboratory will be once again deemed to meet the CLIA conditions in accordance with this section when—

(1) It withdraws any prior refusal to authorize its accreditation organization or licensure agency to release a copy of the laboratory's current accreditation or licensure inspection, the results of the laboratory's quarterly or semi-annual (if applicable) proficiency testing, or both as applicable;

(2) It withdraws any prior refusal to allow a validation inspection; and

(3) HCFA finds that the laboratory meets all the CLIA conditions.

§ 493.509 Continuing Federal oversight of an accreditation organization or licensure agency requirements' equivalency to HCFA requirements.

(a) *Comparability review.* HCFA reviews the equivalency of specific accreditation requirements or licensure requirements of an accreditation organization or State licensure agency organization to the comparable HCFA requirements when—

(1) HCFA promulgates new requirements;

(2) HCFA identifies accreditation organizations or State licensure agencies whose requirements do not continue to be comparable to HCFA requirements;

(3) An accreditation organization or licensure proposes to adopt new requirements; or

(4) An accreditation organization or licensure agency adopts changes to the organizations inspection process as required by § 493.511(b).

(b) *Validation review.* (1) Following the end of a validation review period, HCFA identifies any accreditation organizations or licensure agencies for which either or both of the following exist:

(i) Validation inspection results indicate a rate of disparity between the findings of the accreditation organization or licensure agency and the findings of HCFA, the State survey agency or other HCFA agent of 20 percent or more; or

(ii) Validation inspection results over a period of two or more years indicate a pattern of increasing disparity between the findings of the accreditation organization or licensure agency and the findings of HCFA, the State survey agency or other HCFA agent.

(2) HCFA provides written notice to the accreditation organization or licensure agency, indicating that its approval may be in jeopardy if a validation review reveals that an accreditation organization or licensure agency is not meeting the requirements of this subpart. The notice contains the following information—

(i) A statement of the requirements, instances, rates and/or patterns of discrepancies that were found as well as other related documentation;

(ii) An explanation of HCFA's deeming authority review on which the final determination is based;

(iii) A description of the procedures available if the accreditation organization or licensure agency desires an opportunity to explain or justify the findings made during the validation review; and

(iv) A description of the possible actions as specified in § 493.511 that may be imposed by HHS based on the findings from the validation review.

§ 493.511 Deeming authority review and final determination review.

(a) HCFA conducts a deeming authority review of an accreditation organization's accreditation program or a State's licensure program if the comparability or validation review produces findings as described at § 493.509 (a) or (b)(1), respectively, of this subpart. HCFA reviews, as appropriate, the criteria described in § 493.506 to reevaluate whether the accreditation organization or licensure agency continues to meet all these criteria.

(b) Following the deeming authority review, if HCFA determines that the accreditation organization or licensure agency has failed to adopt requirements comparable to HCFA's the accreditation organization or licensure agency may be given a conditional approval of its deeming authority for a probationary period of six months to adopt comparable requirements, that will be effective 30 days following the date of determination.

(c) Following the deeming authority review, if HCFA determines that the rate of disparity identified during the validation review indicates poor performance by an accreditation organization or licensure agency whether or not the organization is also found to have requirements which are not comparable to CLIA conditions, HCFA—

(1) May give the accreditation organization or licensure agency conditional approval of its deeming authority during a probationary period of up to one year that is effective 30 days following the date of the determination;

(2) Requires the accreditation organization or licensure agency to release to HCFA any facility-specific data that is required by HCFA for continued monitoring;

(3) Requires the accreditation organization or licensure agency to provide HCFA with an inspection schedule for the purpose of intermittent onsite monitoring during the probationary period of the accreditation organization's or licensure agency's inspection process by HCFA staff, State surveyors, HCFA agents or all of the above.

(d)(1) Within 60 days after the end of any probationary period, HCFA make a final determination as to whether or not an accreditation organization or licensure agency continues to meet the criteria described at § 493.506 of this subpart and issues an appropriate notice (including reasons for the determination) to the accreditation organization or licensure agency. This determination is based on any of the following:

(i) The evaluation of the most recent validation inspection and review findings. In order for the specified organization or agency to continue to have deeming authority, it must meet the

criteria in § 493.506 of this subpart and the results of the review must indicate a significant reduction in the rate of disparity between the findings of the accreditation organization or licensure agency and the findings of HCFA, the State agency, or HCFA agent as described at § 493.509(b)(1) of this subpart, and at a rate of less than 20 percent;

(ii) The evaluation of facility-specific data, as necessary, as well as other related information;

(iii) The evaluation of the accreditation organization's licensure agency's surveyors in terms of qualifications, ongoing education and training, composition or inspection team, etc.;

(iv) The evaluation of inspection procedures;

(v) The accreditation or licensure requirements.

(2) HCFA may remove recognition of deeming authority effective 30 days from the date that it provides written notice to the organization or agency that its deeming authority will be removed if the accreditation organization or licensure agency has not made improvements acceptable to HCFA during the probationary period.

(e) The existence of any validation review, deeming authority review, probationary period, or any other action by HCFA does not affect or limit the conducting of any validation inspection.

(f) HCFA will publish in the **Federal Register** containing a justification of the basis for removing the deeming authority from an accreditation organization or licensure agency.

(g) After HCFA withdraws approval of an accreditation organization's or licensure agency's deeming authority, the affected laboratory's certification continues in effect for 60 days after the laboratory receives notification of the withdrawal of approval. HCFA may extend the period for an additioal 60 days for a laboratory if it determines that the laboratory submitted a timely application for inspection to another approved accreditation organization or licensure agency or an application for a CLIA certificate to the State agency or other HCFA agent to enable HCFA or the organization or agency to determine whether the laboratory is in compliance with the CLIA conditions.

§ 493.1701 [Amended]

5. Section 493.1701(b)(4) is removed.

§ 493.1708 [Removed]

6. Section 493.1708 is removed.

Dated: June 27, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: July 9, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90-19267 Filed 8-17-90; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-373, RM-7287]

Radio Broadcasting Services; Cusseta, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Gary P. Albarez, proposing the allotment of Channel 267A to Cusseta, Georgia, as the community's first local FM service. The proposed coordinates for Channel 267A at Cusseta are North Latitude 32-19-11 and West Longitude 84-52-07.

DATES: Comments must be filed on or before October 9, 1990, and reply comments on or before October 24, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Mark Ryland, Latham & Watkins, 1001 Pennsylvania Ave., NW., Suite 1300, Washington, DC 20004.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-373, adopted August 6, 1990, and released August 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchsed from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau

[FR Doc. 90-19557 Filed 8-17-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-371; RM-7215]

Radio Broadcasting Services; Exmore, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Seashore Broadcasting Company, permittee of Station WPHG(FM), Channel 291A, Exmore, Virginia, proposing the substitution of Channel 291B1 for Channel 291A at Exmore, and the modification of its construction permit for Station WPHG(FM) to specify operation on Channel 291B1. The proposed site for Channel 291B1 is 2.5 kilometers (1.6 miles) north of the community at coordinates 37-33-15 and 75-49-38.

DATES: Comments must be filed on or before October 9, 1990, and reply comments on or before October 24, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Harry C. Martin, Troy F. Tanner, Reddy, Begley & Martin, 2033 M. Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No

90–371, adopted August 6, 1990, and released August 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–19555 Filed 8–17–90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90–372, RM–7300]

Radio Broadcasting Services; Spokane, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Pacific Metrocom Northwest, Inc., proposing the substitution of Channel 280C2 for Channel 280C3 at Spokane, Washington, and the modification of its license for Station KVXO(FM) at Spokane to specify operation on the higher powered channel. Channel 280C2 can be allotted to Spokane with a site restriction of 11.7 kilometers (7.3 miles) southeast, at coordinates 47–35–42 and 117–17–53.

DATES: Comments must be filed on or before October 9, 1990, and reply comments on or before October 24, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Pacific Metrocom Northwest, Inc., 289 Key Palm Road, Boca Raton, Florida 33432 (petitioner), and Contemporary Communications Broadcast Consultants, Post Office Box 159, Fayetteville, Georgia 30214 (Consultant to petitioner).

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–372, adopted August 6, 1990, and released August 15, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–19556 Filed 8–17–90; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 55, No. 161
Monday, August 20, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Amoco Production Company From an Objection by the Alaska Division of Governmental Coordination

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Announcement of decision.

On July 20, 1990, the Deputy Secretary of Commerce issued a decision on the consistency appeal of Amoco Production Company (Amoco) from an objection by the Division of Governmental Coordination of the State of Alaska (Division). Amoco submitted its proposed Plan of Exploration (POE) to the Minerals Management Service of the Department of the Interior (MMS). Amoco proposed drilling up to two exploratory oil and gas wells a year in the Beaufort Sea and up to 14 wells over the life of the lease. Pursuant to section 307(c)(3)(B) of the Coastal Zone Management Act, as amended (CZMA) 16 U.S.C. 1451 et seq., the Division objected thereby barring MMS' approval of the POE. On appeal, the Deputy Secretary found that Amoco's proposed activity met the regulatory criteria for an override of the Division's objection on the ground that the activity was consistent with the objectives or purposes of the Coastal Zone Management Act. MMS may therefore approve Amoco's POE. With that approval Amoco may then drill its proposed wells.

FOR ADDITIONAL INFORMATION CONTACT: Margo E. Jackson, Acting Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., suite 603, Washington, DC 20235, (202) 673–5200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: August 14, 1990.

Thomas A. Campbell,

General Counsel.

[FR Doc. 90–19450 Filed 8–17–90; 8:45 am]

BILLING CODE 3510-08-M

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the National Institute of Standards and Technology Visiting Committee on Advanced Technology will meet Tuesday, September 18, 1990, from 8:30 a.m. to 5 p.m. and Wednesday, September 19, 1990, from 8:30 a.m. to 12 noon. The Visiting Committee on Advanced Technology is composed of nine members appointed by the Director of the National Institute of Standards and Technology who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The discussion on NIST Budget scheduled to begin at 3:30 p.m. and ending at 5 p.m. on September 18, 1990, will be closed.

DATES: The meeting will convene September 18, 1990, at 8:30 a.m. and will adjourn for the day at 5 p.m. The meeting will resume at 8:30 a.m. on September 19, 1990, and will end at 12 noon. A closed session is scheduled on September 18, 1990, beginning at 3:30 p.m. and adjourning at 5 p.m.

ADDRESSES: The meeting will be held in Conference Room 1103, Radio Building, National Institute of Standards and Technology, Boulder, Colorado.

FOR FURTHER INFORMATION CONTACT: Dale E. Hall, Visiting Committee Executive Director, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2158.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on September 1, 1989, that portions of the meeting of the Visiting Committee on Advanced Technology which involve examination and discussion of the budget for the Institute may be closed in accordance with section 552(b)(9)(B) of title 5, United States Code, since the meeting is likely to disclose financial information that may be privileged or confidential.

Dated: August 14, 1990.

John W. Lyons,

Director.

[FR Doc. 90–19500 Filed 8–17–90; 8:45 am]

BILLING CODE 3510-13-M

Malcolm Baldrige National Quality Award's Panel of Judges

AGENCY: National Institute of Standards and Technology, DoC.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that there will be a closed meeting of the Panel of Judges of the Malcolm Baldrige National Quality Award from Wednesday, October 3, through Friday, October 5, 1990. The Panel of Judges is composed of nine members prominent in the field of quality management and appointed by the Director of the National Institute of Standards and Technology. The purpose of this meeting is to review the 1990 Award applications and to select applications to be recommended as Award winners. The applications under review contain trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene October 3, 1990 at 8:30 a.m. and adjourn at approximately 2 p.m. on October 5, 1990. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Curt W. Reimann, Associate Director for Quality Programs, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2036.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on May 11, 1990 that the meeting of the Panel of Judges will be closed pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by section 5(c) of the Government in the Sunshine Act, Public law 94–409. The meeting, which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with section 552b(c)(4) of title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: August 14, 1990.

John Lyons,

Director.

[FR Doc. 90–19501 Filed 8–17–90; 8:45 am]

BILLING CODE 3510–13–M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts' next meeting is scheduled for Wednesday, 19 September 1990 at 10 a.m. in the Commission's offices in the Pension Building, Suite 312, Judiciary Square, 441 F Street, NW., Washington, DC 20001 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the Commission offices (202–504–2200) for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC 10 August 1990.

Charles H. Atherton,

Secretary.

[FR Doc. 90–19489 Filed 8–17–90; 8:45 am]

BILLING CODE 6330–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Boards

ACTION: Notice.

SUMMARY: Notice is given of the name of additional members of the Performance Review Board for the Department of the Army.

FOR FURTHER INFORMATION CONTACT: Beverley McDaris, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of the Army, the Pentagon (room 2C670), Washington, DC 20310-0300.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of title 5, U.S.C. requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The additional members for the Performance Review Board for the Consolidated Commands is:

Major General Stanley H. Hyman, Commanding General, U.S. Army Intelligence and Security Command

Mr. Ralph L. Gunn, Director, U.S. Army Information Systems Command—Pentagon

Kenneth L. Denton,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 90–19449 Filed 8–17–90; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.015]

National Resource Centers Program; Foreign Language Studies

AGENCY: Department of Education.

ACTION: Combined notice inviting applications for new awards for fiscal year 1991 under the National Resource Centers Program for Foreign Language and Area Studies or Foreign Language and International Studies and the Foreign Language and Area Studies Fellowships Program.

PURPOSE: These programs make awards to institutions of higher education for general assistance in strengthening nationally recognized centers of excellence in foreign language and area or international studies and for fellowship assistance to meritorious students undergoing advanced training in modern foreign languages and related area or international studies.

DEADLINE FOR TRANSMITTAL OF APPLICATIONS: November 16, 1990.

DEADLINE FOR INTERGOVERNMENTAL REVIEW: January 16, 1991.

APPLICATIONS AVAILABLE: September 17, 1990.

AVAILABLE FUNDS: For FY 1991 the Administration has requested $11,600,000 for the National Resource Centers Program and $9,400,000 for the Foreign Language and Area Studies Fellowships Program. However, the actual level of funding is contingent on final congressional action.

For the National Resource Centers Program, it is anticipated that the funds requested could support approximately 94 awards to centers at an average level of approximately $124,000 per award. The range of awards for Fiscal Year 1990 is from $70,000 to $170,000. Approximately 15 percent of the number of awards available for Fiscal Year 1991 may be used for international affairs or topic-oriented centers. The remaining funds would help insure the maintenance of a minimal national capability in modern foreign languages and area studies for every major region of the world. Up to 15 percent of the number of awards may be used for undergraduate centers; the remaining centers will be comprehensive, which include undergraduate, graduate, and professional school components.

For the Foreign Language and Area Studies Fellowships Program, approximately $9,400,000 may be available for institutional allocations for the major regions of the world, as well as international studies. Approximately 975 individual awards could be allocated by grantee institutions with Fiscal Year 1991 funds (600 academic year and 375 summer) at this level of funding. Under § 657.31(b) of the program regulations, the Secretary would include, in institutional grants, funds for tuition and fees as well as a subsistence allowance for each fellowship award.

For Fiscal Year 1991, subsistence allowance levels will be at least $7,000 for an academic year fellowship and $1,500 for a summer intensive language fellowship. In the event that increased funding becomes available, subsistence allowance levels may be increased; Fellowships Program applicants therefore may wish to propose budgets with subsistence allowance of $10,000 for an academic year fellowship and $2,000 for a summer intensive language fellowship. Budgets for fellows who

travel to summer language programs on other campuses or abroad may also include up to $500 each in travel funds. The amount of the award will not include allowance for dependents. Budgetary adjustments will be made, as necessary, during the grant negotiation process.

Note: The Department is not bound by any estimates in this notice.

PROJECT PERIOD: Thirty-six months, beginning August 15, 1991.

APPLICABLE REGULATIONS: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, and 85.

(b) The regulations for these programs in 34 CFR parts 655 (General Provisions), 656 (National Resource Centers Program), and 657 (Foreign Language and Area Studies Fellowships Program).

PRIORITIES FOR NATIONAL RESOURCE CENTERS: Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priority:

The initiation or expension of in-service teacher training activities for administrators, teachers, and curriculum coordinators in elementary and secondary schools and in institutions of higher education, including community and four-year colleges.

Under 34 CFR 75.105(c)(3) the Secretary funds under this competition only applications that meet this absolute priority.

The Secretary is also particularly interested in applications that meet the following invitational priorities:

(1) Specific countries or world areas:

(a) Africa
(b) Africa and Middle East
(c) East Asia
(d) Eastern Europe and the USSR
(e) Western Europe
(f) Europe (including Canada)
(g) Inner Asia
(h) Latin America
(i) Western Hemisphere (Latin America and Canada)
(j) Middle East
(k) Middle East, South Asia, and Southeast Asia (including Indonesia and Malaysia)
(l) Pacific Rim (including East Asia, Southeast Asia, New Zealand, Canada, parts of Latin America)
(m) Pacific Islands
(n) South and Southeast Asia
(o) South Asia
(p) Southeast Asia
(q) Canada

(2) International studies and/or topics or issues such as, but not limited to, the study of—

(a) The dynamics of contemporary geopolitics;

(b) Environmental issues that cross national borders;

(c) Politics, law, and economics of the transition to democracy;

(d) Influence of trade, monetary, and economic policy on global stability;

(e) The political mediation of ethnic and cultural differences within nations; and

(f) Border conflicts and the resurgence of nationalism and regionalism.

The Secretary is also interested in applications that meet one or more of the following invitational priorities:

(1) To develop and implement plans for evaluating and improving foreign language programs in ways compatible with developing national standards.

(2) To initiate or strengthen summer intensive language programs, in cooperation with other institutions of higher education, that offer instruction in languages not taught on a regular basis during the summer in the United States and provide the equivalent of a full academic year's work of language training.

(3) To initiate or strengthen effective linkages between language and area studies programs and all of the professional disciplines.

(4) To fill gaps in course coverage in disciplines currently underrepresented in the center's basic program.

However, under 34 CFR 75.105(c)(1), an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications. Nonetheless, applicants should note that proposed activity in these priority categories may strengthen the competitiveness of an application under other criteria.

In addition, applicants should be aware that every application must describe all activities related to the selection criteria in section 656.21 or .22.

PRIORITIES FOR FOREIGN LANGUAGE AND AREA STUDIES FELLOWSHIPS: The Secretary gives competitive preference to applications that meet the following priorities:

(1) To propose to make fellowship awards to students in a variety of humanities and social science disciplines, as well as all professional fields.

(2) To award fellowships to students studying languages other than French, German, or Italian.

(3) To assign lowest consideration, in the selection of fellows, to students—

(i) Who already possess language fluency equivalent to educated native speakers in the language for which the award is sought; and

(ii) Who are taking the first 12 semester hours (or 18 quarter hours) or the equivalent in Chinese, French, German, Italian, Japanese, Russian, and Spanish language instruction.

Under 34 CFR 75.105(c)(2)(i), an application that meets these competitive priorities in a particularly effective way receives from the Secretary up to 20 points in addition to any points the application earns under the other selection criteria for the program.

FOR APPLICATIONS OR INFORMATION CONTACT: Dr. Ann I. Schneider or Mr. Robert Dennis, U.S. Department of Education, 400 Maryland Avenue, SW., room 3053 ROB 3, Washington, DC 20202–5331. Telephone: (202) 708–7283.

Program Authority: 20 U.S.C. 1122.

Dated: August 9, 1990.

Leonard L. Haynes III,

Assistant Secretary for Postsecondary Education.

[FR Doc. 90–19477 Filed 8–17–90; 8:45 am]

BILLING CODE 4001–01–M

DEPARTMENT OF ENERGY

Office of the Secretary

Regional hearings to solicit views from public officials and individuals with expertise and interest in the development of a National Energy Strategy

AGENCY: Office of the Secretary, Department of Energy.

ACTION: Notice of hearing to provide comments relating to energy concerns in Alaska and the development of a National Energy Strategy.

SUMMARY: This hearing will be the eighteenth hearing in a series being conducted throughout the country by the Department of Energy to solicit comments from interested parties on a range of topics. Oral testimony at this hearing will be presented by invitation only. The Department is interested in comments on energy issues in Alaska. What environmental impacts are associated with maintaining and expanding Alaskan energy production in onshore and offshore areas? Has the proper balance been struck between protecting Alaska's unique ecology and developing Alaska's abundant natural resources. How safe and environmentally benign are the energy transportation systems serving Alaska? What are the proper roles of Federal, State, and local government officials and Alaska natives in making these determinations?

Written comments regarding this hearing can be submitted by any interested party at either the hearing site or directly to the Department of Energy, Office of Policy, Planning and Analysis, PE-4, Room 7H-062, 1000 Independence Avenue, SW., Washington, DC 20585. Please reference specific hearing and topic.

This and other National Energy Strategy hearings are designed to solicit information, data, and analysis related to the development of national energy policy objectives, strategies for achieving them, and the role that the Federal Government should play in meeting national energy, economic, and environmental needs.

DATE, LOCATION, AND TOPIC OF THE HEARING ARE AS FOLLOWS:

August 27, 1990—Fairbanks, Alaska: Panel topics for this hearing include: The Arctic National Wildlife Refuge (ANWR), Potential for New Alaskan Energy Production, Alaskan Energy Transportation Issues, and Wetlands Issues. This hearing will be held between 8:30 a.m. and 5 p.m. at the John A. Carlson Center, Pioneer Room, 2010 2d Avenue, Fairbanks, AK.

All testimony submitted in conjunction with this hearing will be entered into the National Energy Strategy development record and made available to the public.

FOR FURTHER INFORMATION CONTACT: Please write or call William H. Hatch, PE-4, Room 7H-062, Office of Policy, Planning and Analysis, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-4767.

Vito A. Stagliano,

Associate Deputy Under Secretary, Policy, Planning and Analysis.

[FR Doc. 90-19651 Filed 8-16-90; 12:18 pm]

BILLING CODE 6450-01-M

[Docket No. PP-58-C]

Supplement To Application To Amend Electricity Export Authorization; Detroit Edison Company

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of supplement by the Detroit Edison Company of an application to amend an existing authorization to export electricity to Ontario Hydro.

SUMMARY: The Detroit Edison Company, on behalf of itself and Consumers Power Company (the Michigan Companies), has filed with the Department of Energy (DOE) a supplement to its application for amendment of an existing authorization (Docket No. E-7206) permitting the export of electricity to Ontario Hydro. The application for amendment of the existing export authorization was filed on March 30, 1990, and docketed as PP-58-C. On April 4, 1990, the DOE issued to the Michigan Companies an emergency authorization temporarily removing the 4,000,000,000 kilowatt-hour (KWH) annual energy limit contained in export authorization E-7206. The energency authorization is scheduled to expire on December 31, 1990, or upon the DOE's completion of a formal proceeding on the amendment application, whichever is first. The supplement states that the Michigan Companies will withdraw their application for permanent amendment of the export authorization if the DOE will permit the temporary authorization to remain in effect until December 31, 1990.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Office of Fuels Programs (FE-52), Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9624.

Lise Courtney M. Howe, Office of General Counsel (GC-41), Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-2900.

SUPPLEMENTARY INFORMATION: On March 30, 1990, the Detroit Edison Company, on behalf of itself and Consumers Power Company (the Michigan Companies), filed with the DOE an application to amend an existing electricity export authorization. The existing authorization, issued by the Federal Power Commission on October 10, 1972, in Docket No. E-7206, allows the Michigan Companies to export to Ontario Hydro up to 4,000,000,000 KWH of electric energy annually at a maximum rate of 2,200,000,000 volt-amperes (2,200 MVA). The application requested that the DOE amend the existing authorization by removing the annual energy limit while leaving the 2,200 MVA capacity limitation unchanged. In the application, Detroit Edison also requested that the 4,000,000,000 KWH annual energy limit in the existing authorization be waived temporarily so that Detroit Edison could continue to provide emergency assistance to Ontario Hydro while the request for permanent amendment was being considered by the DOE.

Accordingly, on April 4, 1990, the DOE issued a temporary emergency order to the Michigan Companies removing the energy limit in its existing export authorization until December 31, 1990, or until the completion of the DOE's formal review of the application for permanent amendment.

The DOE published a notice in the **Federal Register** on May 10, 1990, (55 FR 19652) announcing the issuance of the temporary emergency order and commencement of these proceedings. The notice announced a period during which comments and protests would be accepted. The comment period, with an extension, expired July 11, 1990.

On July 9, 1990, the Michigan Companies filed a supplement to the amendment application. The supplement stated that if the temporary emergency order issued by the DOE on April 4, 1990, eliminating the 4,000,000,000 KWH energy limit were permitted to continue until the scheduled expiration date of December 31, 1990, the Michigan Companies would withdraw their application for permanent removal of the annual energy limit. In the supplement to the application, the Michigan Companies also allege that Ontario Hydro will continue to need energy and reliability support from the Michigan Companies through the end of this year.

On July 11, 1990, the American Electric Power System filed a petition to intervene in the subject proceeding and expressed its support for the request contained in the Michigan Companies' July 9, 1990, supplemental filing with the DOE.

DATES: The DOE will accept comments until September 4, 1990, pertaining to the continuation until December 31, 1990, of the emergency authorization issued to the Michigan Companies. If no adverse comments are received by the close of this comment period: (1) The DOE will amend emergency order issued by the DOE on April 4, 1990, which temporarily removed the 4,000,000,000 KWH energy limit contained in the existing export authorization E-7206 until December 31, 1990, or the conclusion of the public proceeding, to provide that the temporary emergency order will continue only through December 31, 1990, and that no public proceeding will be commenced; and, (2) the application by the Michigan Companies to permanently amend export authorization E-7206 will be considered by the DOE to be withdrawn.

Issued in Washington, DC on August 6, 1990.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Fossil Energy.

[FR Doc. 90-19535 Filed 8-17-90; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award, Intent To Award a Grant to Warren Aikens

AGENCY: U.S. Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.6(a)(2), it is making a financial assistance award based on an unsolicited application satisfying the criteria of 10 CFR 600.14(e)(1) under Grant Number DE-FG01-90CE15460 to Warren Aikens for a chunkwood processor which will have a total estimated cost of $79,500.00 to be provided by DOE.

SCOPE: The grant will provide funding for Mr. Aikens to design, construct, and test an advanced prototype of his machine for producing chunk wood from biomass.

The purpose of the project is to develop an advanced prototype chunkwood processor to be demonstrated under realistic field conditions to at least two commercial organizations expressing interest in the project, one of which is an electrical power plant that burns chunkwood.

ELIGIBILITY: Based on the receipt of an unsolicited proposal, eligibility for this award is being limited to Warren Aikens as the developer of marked design changes and improvements in this technology. Following successful demonstration of the prototype, the machine will be marketed directly by Mr. Aikens or licensed to industry for production. It has been determined that this project has high technical merit, representing an innovative and novel idea which has a strong possibility of allowing for future reductions in the Nation's energy consumption.

The proposed project represents a unique idea that is not eligible for financial assistance under a recent, current, or planned solicitation because the funding program, Energy-Related Inventions Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations. The legislation authorizes the ERIP to provide support for worthy ideas submitted by the public. The program has never done a competitive solicitation and it does not have any plans to do one in the future.

The term of the grant shall be eighteen months from the effective date of the award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, ATTN: James C. Knudsen, PR 541, 1000 Independence Ave., SW., Washington, DC 20585.

Scott Sheffield,

Acting Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 90-19530 Filed 8-17-90; 8:45 am]

BILLING CODE 6450-01-M

Award of a Grant, Noncompetitive Financial Assistance

AGENCY: Department of Energy (DOE), Nevada Operations Office.

ACTION: Notice of noncompetitive financial assistance.

SUMMARY: DOE announces that pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14(e)(1), it intends to award a noncompetitive financial assistance grant to the state of Nevada to improve the accountability of DOE in the areas of environmental protection and public health and safety.

This award will provide funds to chart a new course for DOE toward full accountability in the areas of environmental protection and public health and safety.

PROJECT SCOPE: The state of Nevada will provide independent validation of environmental compliance data, establish environmental cleanup schedules, and provide a mechanism for assisting DOE to prioritize its cleanup activities.

The state of Nevada will assume a more substantive role in overseeing DOE's compliance with state environmental laws, and to help it to assure the citizens of Nevada that DOE operations do not constitute a health hazard.

Eligibility for the award of this grant is being limited to the state of Nevada because the applicant is a unit of government, and the activity to be supported is related to performance of a governmental function within the subject's jurisdiction, thereby precluding DOE provisions of support to another entity.

The term of this grant is for 5 years, and will commence October 1, 1990, and end September 30, 1995. The total estimated cost of this award is $4.7 million.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Nevada Operations Office, ATTN: Donald R. Elle, P.O. Box 98518, Las Vegas, NV 89193-8518.

Issued in Las Vegas, Nevada, on August 2, 1990.

Nick C. Aquilina,

Manager.

[FR Doc. 90-19534 Filed 8-17-90; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award Intent To Award Grant to Doty Scientific, Inc.

AGENCY: Department of Energy.

ACTION: Notice of unsolicited assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.14, it is making a financial assistance award under Grant Number DE-FG01-90CE15440 to Doty Scientific, Inc., to fund an invention entitled "Microtube Strip Heat Exchanger."

This invention is a laminar flow counterflow gas-to-gas heat exchanger, that employs thousands of parallel tubes to obtain very high heat exchanger effectiveness and specific conductance with minimal pumping power requirements.

SCOPE: This grant will aid in providing funding in the amount of $99,886 to assist in the development of this heat exchanger, including the development of fabrication techniques that will permit assembly of the tubes, headers and manifolds into functioning heat exchangers at a competitive cost. This technology represents a new school of design in gas-to-gas heat exchangers. The resistance to heat transfer of the boundary layers associated with laminar flow is countered by reducing the tube diameter to less than one millimeter, by using gases of high thermal conductivity such as helium, and by operating at high pressure to maximize the mass flow rate without velocity increase. The design results in small dimensions and low heat exchanger mass for the amount of heat transferred between counterflowing gas streams. Applications which currently show promise are space power systems, cryogenic refrigeration, heat load management in hypersonic aircraft and, possibly, gas cooled nuclear reactors.

ELIGIBILITY: Eligibility for this award is being limited to Doty Scientific, Inc., based on acceptance of an unsolicited application. F. David Doty, the inventor and president, owns a successful small business, primarily involved in the manufacture of high technology equipment for the research and development community, with a substantial history of accomplishment in federally funded research and development. Mr. Doty has employed

the necessary resources to develop this revolutionary heat exchanger design and has enough experience on the forefront of this technology to be capable of successfully managing the project. In accordance with 10 CFR 600.14(e)(1), it has been determined that this project represents a unique idea, that is not eligible for financial assistance under a recent, current, or planned solicitation. The funding program, Energy-Related Inventions Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the legislation directs ERIP to provide support for worthy ideas submitted by the public. The proposed project and technology have a strong potential of adding to the national energy resources.

The term of the grant shall be for eighteen (18) months from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, ATTN: Rosemarie H. Marshall, PR-542, 1000 Independence Avenue, SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 90-19533 Filed 8-17-90; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award; Intent To Award a Grant to The University of Tulsa

AGENCY: Department of Energy.

ACTION: Acceptance of an unsolicited application for a grant award.

SUMMARY: The Department of Energy (DOE), Pittsburgh Energy Technology Center (PETC) announces that pursuant to 10 CFR 600.14 (D) and (E), it intends to award a Grant based on an unsolicited application submitted by the University of Tulsa, for "Microbial Reduction of SO_2 and NO_x as a Means of By-Product Recovery Disposal from Regenerable Processes for the Desulfurization of Flue Gas."

SCOPE: The objectives of this grant project are to: (1) Investigate bacteria whose functions are the same but whose characteristics differ from those previously tested such that removal of SO_2 and NO_x from regenerable flue gas cleanup processes may both be accomplished but in separate bioreactive systems; (2) investigate the use of municipal sewage sludge and CO_2/H_2 as cost-effective and convenient nutrient sources for the bacteria cultures; (3) investigate important design parameters for continuous systems employing selected bacteria; and (4) perform preliminary cost analyses on these systems..

In accordance with 10 CFR 600.14 (D) and (E), The University of Tulsa has been selected as the grant recipient. This activity would be conducted by The University of Tulsa based on the meritorious application of the general evaluation. The benefit to be derived by the general public through DOE support of this activity is the development of understanding and data on microbial removal techniques for removing pollutant species from the gaseous effluents of regenerable flue gas cleanup processes. This activity represents a unique and innovative idea and method which would not be eligible for financial assistance under solicitation, and a competitive solicitation would be inappropriate.

The term of the grant is for a thirty-six month period at an estimated value of $294,255.00. The cost of DOE is anticipated at $294,255.00. There will be no cost sharing.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921-165, Pittsburgh, PA 15236, Attn: John R. Columbia, Telephone: (412) 892-6219.

Dated: August 3, 1990.

Carroll A. Lambton,

Deputy Director, Acquisition and Assistance Division Pittsburgh Energy Technology Center.

[FR Doc. 90-19531 Filed 8-17-90; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 90-06-NG]

Indeck Energy Services of Corinth, Inc., Amendment to Application for Long-Term Authorization To Import Canadian Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of contract amendments and change in point of entry to requested long-term authorization.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on May 18, 1990, of an amended application filed by Indeck-Energy Services of Corinth, Inc. (Indeck-Corinth), in FE Docket No. 90-06-NG. Indeck-Corinth reports a reduction in volumes of imported gas from 24,000 Mcf per day to 16,500 Mcf and a change in the point of entry from the Niagara Spur Loop to Grand Island, New York.

The amendment to the application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited. Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed at the address listed below no later than 4:30 p.m., e.d.t., September 19, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-056, FE-50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-094, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9394.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 3E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: On January 22, 1990, Indeck-Corinth filed an application to import 6.5 Bcf of Canadian natural gas over a 15-year term. Under the original precedent agreement, dated November 3, 1989, the volumes of imported Canadian natural gas were to be 24,000 Mcf per day to be transported by National Fuel Gas Supply Corporation (National Fuel) from the border to the facilities of Consolidated Natural Gas Company (CNG) at Marilla, New York. From its interconnection with CNG, Niagara Mohawk—would deliver the natural gas to Indeck-Corinth. The precedent agreement of February 1, 1990, reduces by 7,500 Mcf the volume of imported natural gas to a daily maximum of 16,500 Mcf. Indeck-Corinth states that this was necessary to reflect actual Canadian volumes under contract to be transported. National Fuel will now transport the imported volumes from the international border at Grand Island, New York, to the facilities of CNG at National Fuel's Porterville Station in Elma, New York.

Comments, especially by parties that may oppose this amendment, should be limited to the impact of the change in the proposed import point. Those who filed motions to intervene in response to the previous **Federal Register** notice are

not required to file again unless they have additional comments or wish to request additional procedures.

NEPA COMPLIANCE: The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires the DOE to give appropriate consideration to the environmental effect of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

PUBLIC COMMENT PROCEDURES: In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial questions of fact, law, or policy at issue, showing that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for trail-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trail-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedures is scheduled, notice to all parties will be provided. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Indeck-Corinth's application and amendment are available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC August 8, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-19532 Filed 8-17-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. QF90-196-000, et al.]

Electric rate, Small power production, and Interlocking Directorate filings; Formosa Plastics Corp., et al.]

Take notice that the following filings have been made with the Commission:

1. Formosa Plastics Corp.

[Docket No. QF90-196-000]

August 7, 1990.

On July 30, 1990, Formosa Plastics Corp. (Applicant), of P.O. Box 271, Baton Rouge, Louisiana 70821, submitted for filing an application for certification of a facility as a qualifying congeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Baton Rouge, Lousiana. The facility will consist of two combustion turbine generating units, two supplementary fired heat recovery boilers and two back-pressure steam turbine generating units. Steam recovered from the facility will be used to meet Applicant's Louisiana plant steam loads. The net electric power production capacity of the facility will be 97.2 MW. The primary energy source will be natural gas. Installation of the facility began in October, 1989.

Comment date: Thirty days from publication in the *Federal Register*, in accordance with Standard Paragraph E at the end of this notice.

2. Iowa Power Inc.

[Docket No. ER90-520-000]

August 9, 1990.

Take notice that on July 31, 1990, Iowa Power Inc. (Iowa Power) tendered for filing historical rate sheets for use in connection with Iowa Power's proposed refund filing made on July 3, 1990, originally designated as Docket No. ER84-82-001. Iowa Power states that the above mentioned rate sheets are a supplement to the July 3, 1990 filing.

Comment date: August 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

3. Monongahela Power Company

[Docket No. ER90-524-000]

August 9, 1990.

Take notice that Monogahala Power Company, on August 1, 1990, tendered for filing proposed changes in its FERC Electric Tariff. The proposed changes would increase revenues from jurisdictional sales and service by $170,000, based on the twelve-month period ending December 31, 1990. The proposed effective date for the increased rates is August 1, 1990.

The changes proposed are for the purpose of recovering increased costs incurred by the Company, as well as to correct and revise its tariff language.

Copies of the filing were served upon the jurisdictional customers and the Public Service Commission of West Virginia.

Comment date: August 23, 1990, in accordance with Standard Paragraph E end of this notice.

4. Northern States Power Company

[Docket No. ER90-527-000]

August 9, 1990.

Take notice that Northern States Power Company (Minnesota) (NSP) on August 1, 1990, tendered for filing proposed changes in FERC wholesale rates.

The 10 affected firm power total requirements wholesale customers and their current FERC rate schedule designations of their contracts are as follows:

Customer	FERC rate schedule No.
Firm Power Service Primary Distribution Voltage	
Arlington	421
Brownton	422
Kasota	426
Kasson	427

Customer	FERC rate schedule No.
North St. Paul	429
Shakopee	431
Winthrop	433
Firm Power Service Transmission Voltage	
Anoka	420
Buffalo	423
Chaska	424

The 9 affected load pattern partial requirements wholesale customers and their current FERC rate schedule designations of their contracts are as follows:

Customer	FERC rate schedule No.
Load Pattern Service Transmission Voltage	
Ada	390
East Grand Forks	387
Fairfax	400
Kenyon	394
LeSueur	392
Meldia	397
Melrose	401
Olivia	388
Sioux Falls	413

The total increase is $3.706 million or 12.00%, above the rates in effect on the date of this filing. It is requested that the increase be permitted to become effective on October 2, 1990, which is 62 days from the date of filing.

NSP states that the proposed rate increases are needed because operating, maintenance and capital costs have increased since the present rates became effective.

Copies of the rate schedule change and comparative billing data were served upon NSP's customers affected by this filing. In addition, copies of the filing have been mailed to the Minnesota Public Utilities Commission, the North Dakota Public Service Commission and the Public Utilities Commission of South Dakota.

Comment date: August 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

5. Consolidated Edison Company, of New York, Inc.

[Docket No. ER90-521-000]

August 9, 1990.

Take notice that on July 31, 1990, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing Supplements to its Rate Schedules FERC Nos. 60 and 66, agreements to provide transmission service for the Power Authority of the State of New York (the Authority). The Supplements provide for an increase in the monthly transmission charge from $1.14 to $1.15 per kilowatt for transmission of power and energy sold by the authority to Brookhaven National Laboratory and Grumman Corporation thus increasing annual revenues under the Rate Schedules for a total of $4,665. Con Edison has requested waiver of notice requirements so that the increase can be made effective as of July 1, 1990.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: August 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

6. Consumers Power Company

[Docket No. ER90-528-000]

August 9, 1990.

Take notice that Consumers Power Company (Consumers Power) on August 1, 1990 tendered for filing its Consumers Power Company Service Agreement Wholesale for Resale Electric Service dated April 25, 1989 for service to Edison Sault Electric Company (Edison Sault). The filed Agreement would supersede the current service agreement between Consumers Power and Edison Sault. The proposed changes would increase revenues from jurisdictional sales and service by $808,908 for the first 12 months through the addition of a monthly Capacity Assurance Factor provision.

The filed Agreement provides for the laying of additional submarine cable to enhance the service provided by Consumers Power. It also provides for a monthly Capacity Assurance Factor (CAF) charge through which Consumers Power would be reimbursed over a twenty-year period for costs associated with the additional cable and related new facilities. The filed Agreement also provides for recovery by Consumers Power of associated property tax costs after the expiration of the CAF. The filed Agreement would also recognize increases in Edison Sault's demand levels and delete provisions that are no longer applicable. Those provisions deal with service at 46 kV and purchases by Consumers Power of surplus energy from Edison Sault. Edison Sault would continue to take service under Consumer Power's FERC Electric Rate Schedule WR.

Copies of the filing were served upon Edison Sault and the Michigan Public Service Commission.

Comment date: August 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

7. United Illuminating Company

[Docket No. ER90-530-000]

August 9, 1990.

Take notice that on August 1, 1990, the United Illuminating Comapny (UI) tendered for filing five rate schedules for short-term, coordination transactions involving the sale of capacity entitlements to Boston Edison Company (Boston Edison). The rate schedules correspond to five agreements, BECO-1 through BECO-5. The commencement and terminated dates for service under the agreements are listed below. UI proposes that the rate schedules commence and terminate on those dates and, by its August 1 filing, gives notice of termination.

Agreement	Commencement	Termination
BECO—1	Nov. 1, 1988	Nov. 31, 1988.
BECO—2	Dec. 1, 1988	March 31, 1989.
BECO—3	May 1, 1989	May 31, 1989.
BECO—4	June 1, 1989	June 30, 1989.
BECO—5	July 1, 1989	July 31, 1989.

The service provided under the agreements is the provision of capacity entitlements and associated energy from UI's portion of New Haven Harbor Station, an oil and gas-fired generating unit, and Millstone Unit 3, a nuclear generating unit.

Copies of the filing were served upon Boston Edison and on the Massachusetts Public Utilities Commission.

Comment date: August 24, 1990, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Electric and Gas Company

[Docket No. ER90-537-000]

August 9, 1990.

Take notice that Public Service Electric and Gas Company (PS) on August 6, 1990, tendered for filing proposed East Windsor Substation Supply Agreement dated April 20, 1990, between Atlantic City Electric Company (ACE), Delmarva Power & Light Company (DPL), Jersey Central Power & Light Company (JC), and Public Service Electric and Gas Company (PS). (PS FERC Rate Schedule No. 62).

PS states that the reason for this filing is to provide additional use of the Lower Delaware Valley Transmission Facilities by Jersey Central Power & Light Company by supplying capacity and energy from the Salem-Deans 500-kV line.

PS requests that the filing be permitted to become effective June 1, 1990.

PS states that this filing has been sent to the Regulatory Commissions of Pennsylvania, New Jersey, Maryland, Delaware and Virginia for their information.

Comment date: August 24, 1990, in accordance with Standard Paragraph E at the end of this notice.

9. Madison Gas and Electric Company

[Docket No. ER90-535-000]

August 9, 1990.

Take notice that on August 3, 1990, Madison Gas and Electric Company (MGE) tendered for filing a proposed transmission service schedule.

The transmission schedule provides for transmission service on MGE's transmission system for municipal utilities, investor-owned utilities, and other qualifying entities.

Copies of this filing have been provided to the Public Service Commission of Wisconsin.

MGE requests that the Commission make the effective date of the proposed rate schedule 60 days after filing as established by FERC rules.

Comment date: August 24, 1990, in accordance with Standard Paragraph E at the end of this notice.

10. Commonwealth Edison Company

[Docket No. ER90-534-000]

August 9, 1990.

Take notice that on August 2, 1990, Commonwealth Edison Company (Edison) tendered for filing Amendment No. 10, dated July 16, 1990, to the Interconnected Agreement dated November 1, 1964, between Edison and Central Illinois Public Service Company (Central Illinois). Amendment No. 10 changes various rates for coordination transactions between the parties.

Edison and Central Illinois requested expedited consideration of the filing and an effective date for each rate schedule to be August 1, 1990. Accordingly, Edison and Central Illinois request waiver of the Commission's Notice Requirements to the extent necessary.

Copies of the filing were served upon the Illinois Commerce Commission and Central Illinois.

Comment date: August 24, 1990, in accordance with Standard Paragraph E at the end of this notice.

11. United Illuminating Company

[Docket No. ER90-529-000]

August 9, 1990.

Take notice that on August 1, 1990, the United Illuminating Company (UI) tendered for filing a rate schedule for a short-term, coordination transaction involving the sale of capacity entitlements to New England Power Company (NEPCO). The sale is pursuant to an agreement under which service commenced May 1, 1989 and terminated October 31, 1989. UI proposes that the rate schedule commence and terminate on those same dates and, by its August 1, filing, gives notice of termination.

The service under the agreement is the provision of capacity entitlements and associated energy from UI's portion of the New Haven Harbor Station, an oil and gas-fired generating unit, and Millstone Unit 3, a nuclear generating unit.

Copies of the filing were served upon NEPCO and on the state commissions in the states in which NEPCO serves at retail.

Comment date: August 23, 1990, in accordance with Standard Paragraph E at the end of this notice.

12. Iowa Power and Light Company

[Docket No. ER90-531-000]

August 10, 1990.

Take notice that on July 31, 1990, Iowa Power and Light Company (Iowa Power) tendered for filing Notices of Cancellation for FERC Rate Schedule Nos. 68 and 73. Iowa Power requests an effective date of May 31, 1985 for Rate Schedule No. 68, and an effective date of December 31, 1988 for Rate Schedule No. 73.

Comment date: August 24, 1990, in accordance with Standard Paragraph E at the end of this notice.

13. Puget Sound Power & Light Company

[Docket No. ER90-536-000]

August 10, 1990.

Take notice that Puget Power & Light Company (Puget) on August 3, 1990 tendered for filing proposed changes in its Rate Schedule FERC No. 78 relating to the Centralia Transmission Agreement executed on September 22, 1989, between Puget and the City of Seattle, City Light Department (Seattle). The proposed changes would increase revenues for service provided under this schedule by $5,250 based on the 12-month period ending June 1991.

The Agreement generally requires Puget to provide capacity for the transmission of Seattle's share of the output from the Centralia Steam-Electric Generating Plant from BPA's C.W. Paul Substation to Puget's Talbot Hill Substation. The proposed increase is made pursuant to and in accordance with provisions of the Agreement calling for escalation in the event of certain increased costs incurred by Puget.

A copy of the filing was served upon Seattle.

Comment date: August 24, 1990, in accordance with Standard Paragraph E at the end of this notice.

24. Central Maine Power Company

[Docket No. ER90-539-000]

August 10, 1990.

Take notice that on August 7, 1990, Central Maine Power Company (CMP), tendered for filing the following rate schedule:

Transmission Service Agreement (unexecuted) between Central Maine Power Company and Maine Public Service Company effective September 1, 1990.

The Transmission Service Agreement filed by CMP covers wheeling services pertaining to Maine Public's entitlement from CMP's William F. Wyman Unit No. 4, presently furnished at the rate set forth on CMP Rate Schedule FPC No. 54. The Transmission Service Agreement increases the wheeling rate to $15.02 per KW per year.

CMP has requested waiver of the Commission's notice and filing requirements so as to permit the rate change to become effective on September 1, 1990.

CMP has served copies of the filing on the affected customer and on the Maine Public Utilities Commission.

Comment date: August 24, 1990, in accordance with Standard Paragraph E end of this notice.

15. Tampa Electric Company

[Docket No. ER90-533-000]

August 10, 1990.

Take notice that on August 2, 1990, Tampa Electric Company (Tampa Electric) tendered for filing Amendment Number Two to the Agreement for Interchange Service between Tampa Electric and Jacksonville Electric Authority (Jacksonville), designated as Tampa Electric's Rate Schedule FERC No. 14. Tampa Electric states that Amendment Number Two provides for termination of the existing Service Schedule B (Scheduled Interchange Service) and inclusion of a new Service Schedule B (Scheduled/Short-Term Firm Interchange Service) under the Interchange Agreement).

Tampa Electric proposes an effective date of August 3, 1990, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Jacksonville and the Florida Public Service Commission.

Comment date: August 24, 1990, in accordance with Standard Paragraph E at the end of this notice.

16. United Illuminating Company

[Docket No. ER90-532-000]

August 10, 1990.

Take notice that on August 1, 1990, United Illuminating Company (UI) tendered for filing three rate schedules for shorterm, coordination transactions involving the sale of capacity entitlements. The rate schedules correspond to agreements with the Massachusetts Municipal Wholesale Electric Company, the Town of Braintree Electric Department and Canal Electric Company, each commencing May 1, 1989 and terminating October 31, 1989. UI proposes that the rate schedules commence and terminate on those dates and, by its August 1 filing, gives notice of termination.

The service provided under the agreements is the provision of capacity entitlements and associated energy from UI's portion of New Harbor Station, an oil and gas-fired generating unit, and Millstone Unit 3, a nuclear generating unit.

Copies of the filing were served upon the purchasers under the agreements and on the state commission in the states in which the purchasers serve at retail.

Comment date: August 24, 1990, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-19464 Filed 8-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-2047-003; CP89-2048-003]

Kern River Gas Transmission Co.; Notice of Compliance Tariff Filing

August 7, 1990.

Take notice that Kern River Gas Transmission Company (Kern River), on July 24, 1990, tendered for filing its FERC Gas Tariff Original Volume No. 1, in compliance with the Commission's order of January 24, 1990 in Docket Nos. CP89-2047-000 and CP89-2048-000 ("Certificate Order").

Kern River's filed tariff, containing firm and interruptible transportation rate schedules, the general transportation terms and conditions, the form of service agreement for firm and interruptible transportation service, the statement of transportation rates, and the index of shippers, incorporates the changes to Kern River's tariff as directed by the Certificate Order, as well as corrections of typographical errors, conforming changes and changes to the form of service agreement. Pursuant to 18 CFR 154.51, Kern River requests leave to file its tariff more than 60 days prior to the proposed effective date so that Kern River, its customers and lenders to the project can obtain certainty as to the terms of service prior to the pipeline's construction. Kern River proposes that its tariff become effective on the pipeline's in-service date, estimated to be no later than January 1992, and states that it will notify the Commission of the precise date at least 30 days prior to such date.

In connection with the filing of its tariff, Kern River has also submitted for the Commission's review the Transportation Service Agreements that Kern River has executed with its customers. Kern River requests that the Commission grant any necessary waivers and/or authorizations in order that the terms of the agreements may be implemented as negotiated.

Kern River states that copies of this filing have been served upon all of the jurisdictional transportation customers.

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 August 28, 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 for 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. 90-19465 Filed 8-17-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-1874-000, RP89-38-000, RP89-99-000]

U-T Offshore System; Application and Offer of Settlement

August 8, 1990.

Take notice that on August 6, 1990, U-T Offshore System (UTOS), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP90-1874-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing UTOS to provide an experimental capacity brokering program, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The application was filed as part of an offer of settlement in Docket Nos. RP89-38-000 and RP89-99-000.[1]

UTOS' stipulation and agreement which constitutes an offer of settlement provides, in part, that:

> All firm shippers on the UTOS system, including UTOS, will be authorized to broker their firm capacity rights on UTOS on an experimental basis.

In accordance with this provision, UTOS requests that the Commission, in conjunction with its approval of UTOS' offer, issue such certificate authority as may be necessary to enable the firm shippers on UTOS to participate in the experimental capacity brokering program on the terms and conditions set forth in Article IV of the stipulation and agreement. UTOS states that it will not accept the certificate requested herein prior to the Commission's approval of the offer of settlement.

UTOS states that it will include a capacity brokering provision in its FERC

[1] On July 25, 1990, UTOS filed in Docket Nos. RP89-38 and RP89-99 an offer of settlement pursuant to § 385.602 of the Commission's Regulations within which is contained UTOS' request for authorization to provide the experimental brokering program. The offer of settlement was tendered for filing on July 25, 1990. However, the certificate application fee required by § 381.207 of the regulations was not paid until August 6, 1990. Section 381.103 of the Commission's regulations provides that the filing data is the date on which the appropriate fee is paid.

Gas Tariff, on an experimental basis and for a limited term, upon the terms and conditions set forth below. UTOS has made it clear that a waiver of the biennial rate filing requirement [2] for a period of one year (i.e., rates to be effective January 1, 1992), is an important consideration in reaching an agreement to include a brokering provision in its Tariff.

UTOS states that the following are the terms and conditions set forth in Article VI of the stipulation and agreement regarding the experimental capacity brokering program:

1. All firm shippers on the UTOS system, including UTOS, will be authorized to broker their firm capacity rights on UTOS, on an experimental basis.

2. Firm capacity may be resold to anyone, including UTOS.

3. No permanent reassignment of capacity rights on UTOS will be permitted under the brokering provisions. Permanent reassignments of firm capacity prior to expiration of contracts will continue to be handled pursuant to the terms of UTOS' Rate Schedule and the regulations under Order Nos. 509 and 509–A.

4. To be brokered, a right to transportation must be identified as to the parties to the immediate transaction, receipt and delivery points, the quantity of gas to be transported, and the time period over which the right is to be exercised.

5. Available firm capacity may be brokered or rebrokered for any geographical route and any time period within the contractual rights of the original firm shipper, but in no event beyond the term of the experimental program. (*See* ¶ 17 below). The capacity may be sold at a negotiated price at or below the maximum allowed price. (*See* ¶ 8 below).

6. Multiple rebrokering will be permitted. Available capacity may be sold as firm or with a recall right, such that, under specified circumstances, the capacity will revert to the seller.

7. Sales of brokered capacity shall be made on a nondiscriminatory basis.

8. The maximum price for brokered capacity shall be the per-unit demand rate charged by UTOS for firm service under UTOS' Rate Schedules T and FT, plus the maximum commodity charge for throughput for such service, or, alternatively, the 100% load factor rate for such service. The minimum price for brokered capacity shall be 0.2 cents per Mcf.

9. UTOS will continue to make available all capacity that is not used by the firm shippers or their assignees, or that has not reverted to UTOS' control as firm capacity, on an interruptible basis, at a rate no greater than the maximum rate for interruptible service under UTOS' Rate schedule IT.

10. All demand and commodity billings will be made to UTOS' firm contracting party, not ultimate shippers. In addition, all contractual, payment, scheduling and imbalance obligations will remain the direct responsibility of UTOS' firm contracting party.

11. All billings by UTOS' firm contracting party for brokered capacity will be directed, in turn, to the first party to whom capacity is brokered. Such first party will be responsible to UTOS' firm contracting party to satisfy any contractual, payment, scheduling, and imbalance obligations associated with the brokered capacity, irrespective of any rebrokering of the capacity.

12. All brokering transactions will be reported to the Commission by the responsible brokering parties, and not by UTOS in its role as the pipeline whose capacity is being brokered.

13. Apart from periodic reporting of brokering activity, UTOS' pipeline shippers will not be required to make any certificate, tariff, rate, or related filings as a condition of participation in UTOS brokering. The brokering of firm capacity, as authorized under any order approving this Stipulation and Agreement, will not be required, but rather, will be optional to UTOS' firm shippers.

14. Neither UTOS, the Commission Staff nor any party will seek a change in UTOS' current rate design during the term of the experimental program.

15. The brokering authorized under the experimental brokering program shall not include brokering of any capacity on pipeline facilities other than the UTOS system.

16. The experimental brokering program shall be recognized as part of a settlement of the instant dockets and, as such, shall not be deemed precedential for any other interstate pipeline.

17. The term of the experimental program and related tariff provisions will expire at such time as the Stipulation and Agreement terminates pursuant to Article VII, *infra*. In UTOS' next rate filing under section 4(e) of the Natural Gas Act, UTOS may, at its option, submit tariff sheets that provide for continuation of the brokering program.

In connection with the above terms and conditions, UTOS has filed a Petition in Docket No. CP76–118 seeking a waiver of the effective date of rate changes required by the biennial filing condition until January 1, 1992.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 29, 1990, filed with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or of the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for UTOS to appear or be represented at the hearing.

The initial comment period on the offer of settlement will be set to coincide with the notice period for the certificate application provided for above. Initial comments will be due no later than August 29, 1990. Reply comments will be due no later than September 10, 1990.

Lois D. Cashell,

Secretary.

[FR Doc. 90–19466 Filed 8–17–90; 8:45 am]

BILLING CODE 6717–01–M

[2] UTOS states that in Docket No. CP76–118, 2 FERC ¶ 61,210 (1978), the Commission amended UTOS' certificate by requiring UTOS to submit a cost of service study every two years to justify its existing rates or to provide a basis for a rate change.

Office of Fossil Energy

[FE Docket No. 90-03-NG]

Great Lakes Gas Transmission Co./ ANR Pipeline Co., Reassigning an Import Authorization, Granting Authority To Import Additional Interruptible Volumes of Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of order reassigning import authorization to import additional interruptible volumes of natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order amending Great Lakes Gas Transmission Company's (Great Lakes) existing import authorization to reduce the volumes of natural gas Great Lakes is authorized to import from TransCanada PipeLines Limited (TransCanada) for resale to ANR Pipeline Company (ANR), and concurrently granting ANR authority to import identical volumes directly from TransCanada. The authorized volumes reassigned from Great Lakes to ANR are up to 19,064 Mcf per day on a firm basis and up to 75,000 Mcf per day on an interruptible basis, beginning on the date of first delivery through October 31, 1990.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, Room 3F-056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 8, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-19537 Filed 8-17-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3822-8]

Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection BASF Corporation, Geismar, LA

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on petition.

SUMMARY: Notice is hereby given that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to BASF Corporation, for the Class I injection wells located at Geismar, Louisiana. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by BASF Corporation, of the specific restricted hazardous waste identified in the petition, into the Class I hazardous waste injection wells at the Geismar, Louisiana facility specifically identified in the petition, for as long as the basis for granting an approval of the petition remains valid, under provisions of 40 CFR 148.24. As required by 40 CFR 124.10, a public notice was issued June 1, 1990. A public hearing was held July 2, 1990, and a public comment period was held July 16, 1990. All comments have been addressed and have been considered in the final decision. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of August 7, 1990.

ADDRESSES: Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Management Division, Water Supply Branch (6W-SU), 1445 Ross Avenue, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Oscar Cabra, Jr., Chief Water Supply Branch, EPA—Region 6, telephone (214) 655-7150, (FTS) 255-7150.

Oscar Cubra,

Acting Director, Water Management Division. (6W)

[FR Doc. 90-19563 Filed 8-17-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3822-4]

The Nation's Hazardous Waste Program at a Crossroads: The RCRA Implementation Study

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of The Nation's Hazardous Waste Program at a Crossroads: The RCRA Implementation Study.

SUMMARY: EPA's Office of Solid Waste and Emergency Response is today announcing the availability of The Nation's Hazardous Waste Program at a Crossroads: The RCRA Implementation Study. This report is a management review of EPA's implementation of Subtitle C of the Resource Conservation and Recovery Act, and presents a review of the ten-year history of national hazardous waste program, together with a series of findings and recommendations for improving the various aspects of that program.

ADDRESSES: The report is available for viewing at all EPA libraries and in the EPA RCRA docket room, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, from 9:00 a.m. to 4 p.m., Monday through Friday, except legal holidays; telephone: (202) 475-9327. The public may copy a maximum of 100 pages of material from any regulatory docket at no cost. Additional copies cost 15 cents per page.

FOR FURTHER INFORMATION CONTACT: For general information and/or a copy of the report (EPA/530-SW-90-069), call the RCRA Hotline at (800) 424-9346 or (202) 382-3000.

SUPPLEMENTARY INFORMATION: This report is the result of a comprehensive study of the Subtitle C program. The report contains an overview of the hazardous waste program, as well as individual chapters concerning the following aspects of the program: evolution/history, the federal-state relationship, regulatory development, permitting, compliance and enforcement, corrective action, resources, information management, and science and technology.

Dated: August 9, 1990.

Don R. Clay,

Assistant Administrator for Solid Waste and Emergency Response.

[FR Doc. 90-19564 Filed 8-17-90; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-81016; FRL-3794-3]

Availability of the TSCA Inventory 1990 Supplement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: A 1990 Supplement to EPA's Toxic Substances Control Act (TSCA) Chemical Substance Inventory has been published. The 1990 Supplement, together with the 1985 Edition of the

TSCA Chemical Inventory, constitute a revised Inventory with a total of 68,000 chemical substances. Copies of the 1990 Supplement are available for sale through the Government Printing Office.

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

SUPPLEMENTARY INFORMATION: Section 8(b) of the Toxic Substances Control Act requires the Administrator of EPA to identify, compile, keep current and publish a list of chemical substances which are manufactured, imported, or processed for commercial purposes in the United States. In accordance with this requirement, EPA has published since 1979 several versions and supplements of the TSCA Chemical Substance Inventory. The latest edition is the 1985 TSCA Chemical Substance Inventory which was published in early 1986. The 1985 Edition covered approximately 63,000 chemical substances.

In a continued effort to update the published Inventory, EPA has compiled the 1990 Supplement to the 1985 Edition of the TSCA Inventory. This supplement covers approximately 5,000 chemical substances that have been added to EPA's Master Inventory File since the publication of the 1985 Edition. The 1990 Supplement, together with the 1985 Edition, constitute a revised Inventory with a total of 68,000 chemical substances.

Copies of the 1990 Supplement are now available for sale at the Government Printing Office. Persons/firms who wish to purchase copies may contact: Superintendent of Documents, Government Printing Office (GPO), Washington, DC 20402, Order Desk: (202) 783-3238. Requests for copies of the 1990 Supplement should specify the document number (GPO Stock No. 055-000-00361-1) and be accompanied by a check or money order in the amount of $15.00 per copy ($18.75 outside the U.S.).

The 1985 TSCA Chemical Inventory is also available at the Government Printing Office. Requests for copies of the five volume set should specify the document number (GPO Stock No. 055-00000254-1) and be accompanied by a check or money order in the amount of $161.00 for the five volume set ($201.00 outside the U.S. and Canada).

Chemical substances that were added to EPA's Master Inventory File after February 1, 1990, are not included in the 1990 Supplement. Persons who wish to know whether certain chemical substances intended for manufacture or import are included in EPA's Master Inventory File must submit a notice of Bona Fide Intent to Manufacture or Import to EPA, pursuant to the procedures and requirements stipulated in 40 CFR 710.6 and 720.25. Information on how to prepare a Bona Fide Intent submission may be obtained from: Chemical Inventory Section (TS-790), Environmental Protection Agency, Office of Toxic Substances, 401 M St., SW., Washington, DC 20460.

EPA will also be making available the complete nonconfidential TSCA Inventory, including both the 1985 Inventory and the 1990 Supplement, in computer tape form. Two computer tapes will be provided. The first tape will list the chemical substances by their CAS Registry Number, preferred chemical name, and, where appropriate, molecular formula. The second tape will be an alphabetical listing of chemical synonyms for the substances. The listed synonyms will include only those reported to EPA for those substances, in contrast to the printed Inventory which also includes synonyms which are copyrighted by the Chemical Abstracts Service. The tape will not include generic names for substances with confidential identities. The Inventory on computer tape may be obtained by writing or telephoning the: National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, Attention: Sales Desk, (703) 487-4650.

Dated: August 13, 1990.

Linda A. Travers,

Director, Information Management Division, Office of Pesticides and Toxic Substances.

[FR Doc. 90-19483 Filed 8-17-90; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the 1992 ITU World Administrative Radio Conference for Dealing with Frequency Allocations in Certain Parts of the Spectrum (92-WARC Advisory Committee)

August 15, 1990.

The FCC Industry Advisory Committee for the ITU 1992 World Administrative Radio Conference for Dealing with Frequency Allocations in Certain Parts of the Spectrum (92-WARC Advisory Committee) will meet between 10 a.m. and 12 p.m. on Friday, September 14, 1990, in Room 856 at Commission premises located at 1919 M Street, NW., Washington, DC.

The agenda for this third meeting of the Committee will be to discuss the interim reports from the informal working groups which will impact the FCC Second Notice of Inquiry for 92-WARC; to review the status of on-going preparatory work by the Industry Advisory Committee; and to plan the continuing work of the Committee.

Information regarding meetings of the Industry Advisory Committee and its five Informal Working Groups, may be obtained twenty-four hours a day, seven days a week, via the Public Access Link (PAL) by dailing the FCC Laboratory Computer at (301) 725-1072.

Designated Federal Official for the Committee is Walda W. Roseman, Office of International Communications, Federal Communications Commission, Washington, DC 20554, (202) 632-0935.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-19558 Filed 8-17-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

C&S/Sovran Corp. and Sovran Financial Corp., Request for Exemption from Tying Provisions

C&S/Sovran Corporation, Atlanta, Georgia, and Norfolk, Virginia ("C&S/Sovran") and Sovran Financial Corporation, Norfolk, Virginia ("Sovran"), have requested, pursuant to section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971 *et seq.*) ("section 106"), that the Board grant an exemption from the anti-tying provisions of section 106, in order to permit Sovran's credit card issuing bank to offer reduced annual fees and periodic interest rates on credit card accounts. This reduced consideration for credit card accounts would be available to customers who obtain one or more traditional banking services from one of Sovran's affiliate banks. Although section 106 permits a bank to fix or to vary the consideration for extending credit or furnishing services on condition that a customer also obtain a traditional banking service (loan, discount, deposit or trust service) from that bank, it prohibits a bank from engaging in these same activities on condition that the customer obtain any additional credit or services from any other subsidiary of the bank's parent bank holding company. The Board may grant, however, an exception that is not

contrary to the purposes of this provision.

Sovran, with consolidated assets of $25.5 billion at March 31, 1990, is the largest banking organization in the Commonwealth of Virginia, and owns 12 banking subsidiaries in Virginia, Delaware, Kentucky, Maryland, Tennessee, and the District of Columbia, with consolidated deposits of $18.7 billion. C&S/Sovran, the proposed parent company of Sovran, has joined in the request but has not proposed specifically that the exemption apply to entities other than Sovran's existing affiliate banks.

Sovran proposes that the card issuing bank provide credit cards on advantageous terms to customers who obtain another traditional banking service with a Sovran affiliate bank. Accordingly, the special reduced-rate credit card program would be conditioned upon a customer obtaining additional banking services from Sovran's subsidiary banks, and would, therefore, be barred by the literal terms of section 106 without an exemption from the Board.

In support of its request for an exemption, Sovran cites the precedents of (a) the Board's June 20, 1990 order approving requests by Norwest Corporation and NCNB Corporation for an exemption to permit their banks to offer a credit card at lower cost in conjunction with traditional banking services provided by their other subsidiary banks; and (b) the notice of proposed rulemaking issued by the Board on June 22, 1990, proposing to amend section 225.4(d) of the Board's Regulation Y (12 CFR 225.4(d)) to permit a bank owned by a bank holding company to vary the consideration (including interest rates and fees) charged in connection with extensions of credit pursuant to a credit card offered by the bank on the basis of the condition or requirement that a customer also obtain a traditional banking service from another bank subsidiary of the card-issuing bank's holding company. Sovran will continue to offer banking services and credit cards separately, and banking services will be available to customers without a credit card on the same terms as with a credit card.

Notice of the request is published solely in order to seek the views of interested persons on the issues presented by the request and does not represent a determination by the Board that the request meets or is likely to meet the standards of section 106. Any request for a hearing on this issue must, as required by section 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 request for exemption.

The request may be inspected at the offices of the Board of Governors. Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary of the Board of Governors of the Federal Reserve System, Washington, DC 200551 not later than September 21, 1990.

Board of Governors of the Federal Reserve System, August 14, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-19492 Filed 8-17-90; 8:45 am]

BILLING CODE 6210-01-M

First Financial Bancorp; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 10, 1990.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. First Financial Bancorp, Monroe, Ohio; to acquire 100 percent of the voting shares of Fayette Federal Savings Bank, Connersville, Indiana, and thereby engage in savings and loan activities pursuant to section 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 14, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-19493 Filed 8-17-90; 8:45 am]

BILLING CODE 6210-01-M

North Milwaukee Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and section 225.14 of the Board's Regulation Y (12 CFR 225.24) 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)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application 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.

Comments regarding this application must be received not later than September 10, 1990.

A. Federal Reserve Bank of Chicago David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *North Milwaukee Bancshares, Inc.*, Milwaukee, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of North Milwaukee State Bank, Milwaukee, Wisconsin.

Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 90–19494 Filed 8–17–90; 8:45 am]
BILLING CODE 6210–01–M

GENERAL SERVICES ADMINISTRATION

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Award of a Lease for a New Department of Treasury-Internal Revenue Service Facility in Detroit, MI

The General Services Administration is preparing an Environmental Impact Statement (EIS) for the proposed award of a 20 year lease with a potential option to purchase, which will result in the construction of a new 424,000–446,000 occupiable square foot (osf) Department of Treasury-Internal Revenue Service (IRS) facility. The building will consist of office space and related highly-technical space plus 850 secured inside parking spaces. The site selected by the Federal Government in cooperation with the City of Detroit is the northern portion of the parcel located at Michigan Avenue, Third Avenue, and the John C. Lodge Service Drive in the Central Business District of Detroit, Michigan. This new IRS facility will become the primary processing center for all business tax returns filed nationwide.

The EIS will evaluate potential environmental and socioeconomic impacts resulting from the different project alternatives. The construction of a new IRS facility, the incorporation of adjacent sites into the pre-selected site, and "No Action" are alternatives that will be included in the EIS. Historic, cultural, and urban quality effects will be assessed in the EIS, as well as impacts on transportation, utilities and services, and real estate market activity. Potential short-term and long-term impacts will be discussed in the EIS.

A scoping meeting is scheduled to provide interested parties with an opportunity to identify the significant issues which will arise as a result of the proposed project and alternatives. The details of the meeting are described below.

Scoping Meeting

Date: Thursday, August 23, 1990
Time: 1 p.m.
Place: U.S. Court House, Conference room 115, 231 West Lafayette, Detroit, Michigan 48226

All participants are requested to register by mail or in person if they elect to make an oral presentation at the meeting. Oral presentations will be limited to ten minutes. Written comments will be accepted for incorporation into the record at the meeting and for ten workdays following the meeting.

FOR MORE INFORMATION PLEASE CONTACT: Sharon Malloy, Planning Staff-5PL, General Services Administration, 230 South Dearborn Street, room 3670, Chicago, Illinois 60604, (312) 353–5610.

Dated: August 10, 1990.

Harry Gerdy,
Acting Regional Administrator, General Services Administration, Region 5.
[FR Doc. 90–19452 Filed 8–17–90; 8:45 am]
BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Clinical Chemistry and Clinical Toxicology Devices Panel

Date, time, and place. September 6 and 7, 1990, 9 a.m., Conference Rm. G, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, September 6, 1990, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 12 m.; open public hearing, 1 p.m. to 2 p.m.; open committee discussion, 2 p.m. to 5 p.m.; September 7, 1990, has been reserved if more time is needed; Kaiser Aziz, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1243.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before August 22, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On September 6, 1990, the committee will discuss; (1) A premarket approval application (PMA) for a device used for the quantitative determination of cyclosporine in whole blood during immunosuppressant therapy, and (2) a PMA for a device used for the qualitative identification of progesterone receptors in human tissue sections for use as an aid in the prognosis and management of breast cancer patients. If necessary, discussions will continue on September 7, 1990.

Oncologic Drugs Advisory Committee

Date, time, and place. September 10 and 11, 1990, 9 a.m., Holiday Inn, Two Montgomery Village Ave., Gaithersburg, MD.

Type of meeting and contact person. Open public hearing, September 10, 1990, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; open committee discussion, September 11, 1990, 9 a.m. to 4:30 p.m.; Gretchen Hascall, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695. The contact person named above will provide a meeting agenda and list of committee members upon request.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of cancer.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 4, 1990, and submit a brief statement of the general nature of the evidence or

arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On September 10, 1990, the committee will: (1) Have a followup discussion on new drug application (NDA) 50661, Idamycin (idarubicin), Adria Laboratories, for use in combination with other approved antileukemic drugs for the treatment of acute nonlymphocytic leukemia, and (2) discuss NDA 20029, Amsidyl (amsacrine), Parke-Davis Pharmaceutical Research, Division of Warner Lambert Co., for use in combination with established antileukemic agents as induction therapy in adult patients with previously untreated acute nonlymphocytic leukemia. On September 11, 1990, the committee will discuss NDA 20038, Fludara I.V. (fludarabine), Triton Biosciences, Inc., for the palliative treatment of chronic lymphocytic leukemia refractory to other therapy.

Antiviral Drugs Advisory Committee

Date, time, and place. September 17 and 18, 1990, 8:30 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, September 17, 1990, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 4:30 p.m.; September 18, 1990, 8:30 a.m. to 4:30 p.m.; Gretchen Hascall, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695. The contact person named above will provide a meeting agenda and list of committee members upon request.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational human drug products for use in the treatment of acquired immunodeficiency syndrome (AIDS), AIDS-related complex (ARC), and other viral, fungal, and mycobacterial infections.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before September 13, 1990, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On September 17, 1990, the committee will discuss protocol designs for controlled clinical trials in pregnant women for the prevention of perinatal transmission of human immunodeficiency virus (HIV) infection. On September 18, 1990, the committee will discuss the design of pivotal efficacy studies to support NDA approval of new antiretroviral agents and immunomodulators for the treatment of individuals with HIV infection.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committee shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed as the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom on Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: August 13, 1990

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–19487 Filed 8–17–90; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Advisory Council Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1990:

Name: National Advisory Committee on Rural Health.

Date and Time: September 24–26, 1990, 8:15 a.m.

Place: West Virginia University Health Sciences Center and Holiday Inn Morgantown, 1400 Saratoga Avenue. Morgantown, West Virginia 26505.

The meeting is open to the public.

Purpose: The Committee provides advice and recommendations to the Secretary with respect to the delivery, financing, research, development and administration of health care services in rural areas.

Agenda: During the first day, the Committee will participate in the West Virginia Rural Health Conference at the West Virginia University Science Center. On September 25, the Committee Work Groups will meet to review the Secretary's responses to the recommendations published in the second report; discuss such issues as midlevel reimbursement, malpractice insurance, and minority rural health, and begin formulating information to be included in the third report to the Secretary. On September 26, the Work Groups will report to the full Committee.

Anyone requiring information regarding the subject Council should contact Mr. Jeffrey Human, Executive Secretary, National Advisory Committee on Rural Health, Health Resources and Services Administration, room 14–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0835.

Persons interested in attending any portion of the meeting should contact Ms. Arlene Granderson, Director of Operations, Office of Rural Health Policy, Health Resources and Services Administration, Telephone (301) 443–0835.

Agenda Items are subject to change as priorities dictate.

Dated: August 14, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90–19488 Filed 8–17–90; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–930–00–4214–10; WYW 120797]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, has filed an application to withdraw 7,990.67 acres of National Forest System lands for protection of the Ashenfelder Basin Research Natural Area. This withdrawal would provide protection of research opportunities in natural ecological processes that affect this forest type.

DATES: Comments should be received on or before November 20, 1990.

ADDRESSES: Comments and meeting requests should be sent to the Wyoming State Director, BLM, 2515 Warren Avenue, Cheyenne, Wyoming 82001.

FOR FURTHER INFORMATION CONTACT: Tamara Gertsch, BLM Wyoming State Office, 307–775–6115.

SUPPLEMENTARY INFORMATION: On August 6, 1990, the U.S. Department of Agriculture filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws, subject to valid existing rights:

Sixth Principal Meridian

Medicine Bow National Forest

T. 27 N., R. 71 W.,
- Sec. 4, W½ lot 1, lots 2–4, W½SE¼NE¼, SW¼NE¼, S½NW¼, SW¼, W½SE¼, W½E½SE¼;
- Sec. 5, lots 1–2, S½NE¼, S½SE¼SW¼, SE¼;
- Sec. 7, lots 2, 5–9, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
- Sec. 8, NE¼, E½NW¼, SW¼NW¼, S½;
- Sec. 9, N½NW¼NE¼, N½NW¼, SW¼NW¼, N½SE¼NW¼, SW¼SE¼NW¼, W½SW¼;
- Sec. 17, lots 1–15, W½, lot 16;
- Sec. 18, lots 5–20;
- Sec. 19, lots 5–20;
- Sec. 20, N½ lot 2, lots 3–6, 11–13, W½ lot 14;
- Sec. 29, lot 4, NW¼ lot 5;
- Sec. 30, lots 5–6, N½ lot 7, lot 8, N½ lot 9, N½ lot 12.

T. 27 N., R. 72 W.,
- Sec. 12, SE¼NE¼SE¼, SE¼SW¼SE¼;
- Sec. 13, NE¼, SE¼NE¼NW¼, SE¼NE¼, NW¼SW¼NW¼, S½SW¼NW¼, S½;
- Sec. 14, SE¼SE¼SE¼;
- Sec. 23, E½NE¼NE¼, SW¼NE¼NE¼, SE¼SW¼NE¼, SE¼NE¼, NE¼SE¼, E½NW¼SE¼, SW¼NW¼SE¼, S½SE¼;
- Sec. 24, all;
- Sec. 25, lots 1–5, SW¼NE¼, S½NW½, N½SW¼, SW¼SW¼, N½SE¼SW¼, N½NW¼SE¼, SW¼NW¼SE¼;
- Sec. 26, lot 1, E½ lot 2, SE¼NE¼, E½SW¼NE¼, N½SE¼, N½SW¼SE¼, SE¼SE¼;
- Sec. 35, N½NE¼NE¼.

T. 28 N., R. 71 W.,
- Sec. 32, lots 1, 3, 4, 5 and 6;
- Sec. 33, lots 1–4, N½NE¼, SW¼NE¼, N½SE¼NE¼, SW¼SE¼NE¼, E½W½, W½SE½, SW¼SE¼SE¼.

The areas described contain 7,990.67 acres in Albany County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that a public meeting will be held in connection with the proposed withdrawal. A notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are those uses within the statutory authorities pertinent to National Forest System lands and subject to discretionary approval.

The temporary segregation of the lands in connection with this withdrawal application shall not affect the administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of the lands by the Department of Agriculture.

David J. Walter,

Acting State Director.

[FR Doc. 90–19495 Filed 8–17–90; 8:45 am]

BILLING CODE 4310–22–M

Fish and Wildlife Service

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.*):

PRT 750327

Applicant: St. Louis Zoological Park, St. Louis, Mo.

The applicant requests a permit to import up to 25 banteng (*Bos javanicus*) skulls obtained from poached animals in Thailand, Indonesia, and Malaysia, for the purpose of scientific research.

PRT 751021

Applicant: Robert Edgar, Arleta, CA.

The applicant requests a permit under section 10(a)(1)(B) of the Endangered Species Act to incidentally take San Joaquin kit fox (*Vulpes macrotis mutica*), Tipton kangaroo rat (*Dipodomys nitratoides*) and blunt-nosed leopard lizard (*Gambelia* (=*Crotaphytus*) *silus*) which are found

on his property near Allensworth, in Tulare County, California. The applicant requests a permit to incidentally take these species in association with the development of 210 acres of his property for a turkey raising facility and its long term operation and maintenance. The applicant has submitted with his application a Habitat Conservation Plan encompassing all three species. Under the proposed Habitat Conservation Plan the applicant will acquire and transfer 630 acres of habitat management land to the California Department of Fish and Game in fee title or as conservation easement located within the Ecological Reserve Conceptual Area in Tulare County, California.

PRT 736469

Applicant: Chris Kilpatrick, Riverside, CA.

The applicant requests a permit to export and reimport captive-bred tigers (*Panthera tigris*) and lions (*Panthera leo*) for the purpose of circus performances during which the applicant intends to educate the public about the tiger's ecological role and conservation needs.

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 432, 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: August 15, 1990.

Karen Willson,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 90-19523 Filed 8-17-90; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 11, 1990. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by September 4, 1990.

Beth Boland,

Acting Chief of Registration, National Register.

ARKANSAS

Carroll County

Stamps Store, Old Hwy 68 near its jct. with AR 68, Osage, 90001380

Clark County

Benjamin Mercantile Building, 410 Main St., Arkadelphia, 90001378

Garland County

Mayberry Springs, US 270, Crystal Springs vicinity, 90001379

Lonoke County

Fletcher, W.P., House, 604 W. Fourth St., Lonoke, 90001373

Perry County

Perryville American Legion Building, Plum and Main Sts., Perryville, 90001377

Pike County

Rosenwald School, AR 26, Delight vicinity, 90001381

CALIFORNIA

Sacramento County

Merrium Apartments, 1017 14th St., Sacramento, 90001386

DISTRICT OF COLUMBIA

District of Columbia (State equivalent)

National Union Building, 918 F St., NW., Washington, 90001375

Streedman—Ray House, 1925 F St., NW., Washington, 90001376

GEORGIA

Jackson County

Holder Plantation, Jct. of Possum Creek Rd. and US 129, Jefferson vicinity, 90001408

NEW JERSEY

Monmouth County

St. John's Episcopal Church, Little Silver Point Rd., Little Silver, 90001374

NORTH CAROLINA

Catawba County

Long, McCorkle and Murray Houses (Catawba County MPS), 1310-1326 N. Main Ave., Newton, 90001371

Cherokee County

Cooper, Robert Lafayette, House, 109 Campbell St., Murphey, 90001372

PENNSYLVANIA

Centre County

Linden Hall Historic District, Rock Hill Rd. between Linden Hall and Brush Valley Rds., Linden Hall, 90001409

Chester County

Phillips, Joseph and Esther, Plantation, Bailey's Crossroads, S of Glen Run Rd., Atglen vicinity, 90001414

Lancaster County

American/Consolidated Tobacco Companies (Tobacco Buildings in Lancaster City MPS), 820-830 N. Prince St., Lancaster, 90001398

Basch & Fisher Tobacco Warehouse (Tobacco Buildings in Lancaster City MPS), 348 New Holland Ave., Lancaster, 90001399

Bowman, Jacob, Tobacco Warehouse (Tobacco Buildings in Lancaster City MPS), 226-230 E. Grant St., Lancaster, 90001400

Brimmer, John, Tobacco Warehouse (Tobacco Buildings in Lancaster City MPS), 226 M. Prince St., Lancaster, 90001390

Douglass, John, House, Sproul Rd., S of PA 896, Kirkwood vicinity, 90001411

Eisenlohr Bayuk Tobacco Historic District (Tobacco Buildings in Lancaster City MPS), N. Water St., at W. Liberty St., Lancaster, 90001397

Frey, Jacob L., Tobacco Warehouse (Tobacco Buildings in Lancaster City MPS), 210 W. Grant St., Lancaster, 90001396

Friedman, Henry B., Tobacco Warehouse (Tobacco Buildings in Lancaster City MPS), 309-311 Harrisburg Ave., Lancaster, 90001392

Harrisburg Avenue Tobacco Historic District (Tobacco Buildings in Lancaster City MPS), Harrisburg Ave. at N. Mulberry St., Lancaster, 90001393

Martin, B.B., Tobacco Warehouse (Tobacco Buildings in Lancaster City MPS), 422-428 N. Water St., Lancaster, 90001394

McGovern, Edward, Tobacco Warehouse (Tobacco Buildings in Lancaster City MPS), 302-304 N. Plum St., Lancaster, 90001395

Miller, David H., Tobacco Warehouse (Tobacco Buildings in Lancaster City MPS), 512 N. Market St., Lancaster, 90001407

Milleysack, J.B. Cigar Factory (Tobacco Buildings in Lancaster City MPS), 820 Columbia Ave., rear, Lancaster, 90001401

N. Shippen/Tobacco Avenue Historic District (Tobacco Buildings in Lancaster City MPS), Roughly bounded by N. Shippen St., Tobacco Ave., and E. Fulton St., Lancaster, 90001402

Reinholds Station Trinity Chapel, 114 E. Main St., Reinholds, 90001412

Schnader, R.K. & Sons, Tobacco Warehouse (Tobacco Buildings in Lancaster City MPS), 437-439 W. Grant St., Lancaster, 90001404

Schnader, Walter, Tobacco Warehouse (Tobacco Buildings in Lancaster City MPS), 417-419 W. Grant St., Lancaster, 90001391

Serman, L.G., Tobacco Warehouse (Tobacco Buildings in Lancaster City MPS), 602 E. Marion St., Lancaster, 90001405

Slater Cigar Co. (Tobacco Buildings in Lancaster City MRA), 625 and 626-628 Columbia Ave., Lancaster, 90001403

Teller Brothers/Reed Tobacco Historic District (Tobacco Buildings in Lancaster City MPS), N. Prince St., 200 block, E. side, Lancaster, 90001406

Montgomery County

Welsh, John, House, 8765 Stenton Ave., Wyndmoor, 90001415

Philadelphia County

Philadelphia Wholesales Drug Company Building, 513–525 N. Tenth St., Philadelphia, 90001410

York County

Brodbeck, S.B., Housing, Main St., Brodbecks, 90001413

TEXAS

Tom Green County

Building at 113–119 East Concho (San Angelo MRA), 113–119 E. Concho, San Angelo, 90001382

Building at 427 West Twohig (San Angelo MRA), 427 W. Twohig St., San Angelo, 90001385

House at 410 Summit at North Emerick (San Angelo MRA), 410 Summit at N. Emerick, San Angelo, 90001384

Walsh, C.C., House (San Angelo MRA), 922 Pecos, San Angelo, 90001383

WYOMING

Laramie County

Remount Ranch, Remount Ranch Rd., 1 mi. S. of US 80, Cheyenne vicinity, 90001389

Park County

First National Bank of Meeteetse, 1033 Park Ave., Meeteetse, 90001388

Sublette County

Daniel School, US 189, Daniel, 90001387

In order to assist in the preservation of the following property, the commenting period has been waived.

VIRGINIA

Shenandoah County

Campbell Farm, VA 675, near Lantz Mills, Edinburg, 90001416

[FR Doc. 90–19560 Filed 8–17–90; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub–No. 358X)]

CSX Transportation, Inc.; Abandonment Exemption in Muskegon County, MI

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 0.64-mile line of railroad between valuation station 11+13 and point of switch 0+00, and between valuation station 5+80 and point of switch 28+67, in Muskegon County, MI.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on September 19, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by August 30, 1990.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by September 10, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Patricia Vail, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by August 24, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: August 13, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–19522 Filed 8–17–90, 8:45 am]

BILLING CODE 7035–01–M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—NCR Corp., Teradata Corp.

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"), NCR Corporation ("NCR") and Teradata Corporation ("Teradata") on June 12, 1990 filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to a joint venture and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the venture and its general areas of planned activities are given below.

NCR is a Maryland corporation with its principal place of business at 1700 South Patterson Blvd., Dayton, Ohio 45479.

Teradata is a Delaware corporation with its principal place of business at 100 North Sepulveda Blvd., El Segundo, California 90245.

NCR and Teradata entered into written agreements effective March 31, 1990 to engage jointly in a project for the purpose of developing a large scale general purpose parallel processing system, including hardware and software, capable of operating both Teradata's relational database software and NCR's software environment. The principal activities of the project will include system architecture and formulation, component (software and hardware) engineering design, product integration and verification, and production readiness through the prototype stage.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-19457 Filed 8-17-90; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984—OSI/Network Management Forum

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. § 4301 *et seq.* ("the Act"), OSI/Network Management Forum ("the Forum") on July 20, 1990, filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing additions to 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.

On October 21, 1988, the Forum filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on December 8, 1988 (53 FR. 49615). On December 23, 1988, March 23, 1989, July 3, 1989, september 28, 1989, November 22, 1989, January 29, 1990, March 20, 1990, and May 7, 1990, the Forum filed additional written notifications pursuant to section 6(a) of the Act. The Department published notices in the Federal Register pursuant to section 6(b) on January 26, 1989 (54 FR. 3870), April 25, 1989 (54 FR. 17834), August 4, 1989 (54 FR. 32141), October 26, 1989(54 FR. 43631), January 10, 1990 (55 FR. 926), February 28, 1990 (55 FR. 7046), April 23, 1990 (55 FR. 15295), and May 24, 1990 (55 FR. 21449), respectively.

The identities of the additional parties to the venture are given below:

Voting Member

France Telecom, DACT/STP/Re, 36 Rue du Commandant Mouchotte, 75675 Paris Cedex, France

Associate Members

Codex, 20 Cabot Blvd, Mansfield, MA 02048
Data Communications Corporation of Korea, DACOM Bldg 65-228, 3-Ga Hangang-Ro Yongsan-Ku, Seoul, Korea
Copenhagen Telephone Company, Norregade 21, DK-1199 Copenhagen K, Denmark
BTS Holdings, Royal Oak House, Brighton Road, Purley Surrey CR2 2BG,England
BIM SA/NV, Kwikstraat, 4, 3078 Everberg, Belgium

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 90-19458 Filed 8-17-90; 8:45 am]

BILLING CODE 4410-01-M

Air Conditioning and Refrigeration Research;University of Illinois at Urbana Champaign; Notification

Notice is hereby given that, on July 9, 1990, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the University of Illinois at Urbana-Champaign filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identity of the parties to this agreement and (2) the nature and objectives of this agreement. 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 identity of the parties to this agreement and the general areas of planned activity are given below:

The current parties are the following:

Acustar-Dayton Thermal Products;
Allied-Signal, Inc.;
Amana Refrigeration, Inc.;
Bergstrom Manufacturing Company;
Caterpillar, Inc.;
E. I. du Pont de Nemours & Company;
Electric Power Research Institute;
Ford Motor Company;
General Electric Company;
Harrison Radiator/Division of General Motors Corporation;
Parker-Hannifin Corporation;
Peerless of America, Inc.;
Signet Systems, Inc.;
Whirlpool Corporation;
White Consolidated Industries, Inc.

The area of planned activity is research aimed at contributing to the technology base (consisting of data, theory and computer software) for energy-efficient and environmentally acceptable air conditioning and refrigeration equipment.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-19459 Filed 8-17-90; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Under OMB Review

AGENCY: Institute of Museum Services, National Foundation on the Arts and the Humanities.

ACTION: Notice of information collection.

SUMMARY: The Institute of Museum Services has submitted the following collection requirement to OMB for review and clearance under the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted on or before September 19, 1990.

ADDRESSES: Send comments to Rebecca Danvers, Program Director, Institute for Museum Services, 1100 Pennsylvania Avenue, NW., room 609, Washington, DC 20506 (202-786-0539) and Mr. Daniel Chenok, Office of Management and Budget, 726 Jackson Place, NW., room 3002, NEOB, Washington, DC 20503 (202-395-7316).

FOR FURTHER INFORMATION: Copies of this submission are available at the IMS from Mamie Bittner, Public Affairs Officer, Institute for Museum Services, 1100 Pennsylvania Avenue, NW., room 510, Washington, DC 20506 (202) 785-0536.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into forms, revisions, or extensions. Each entry is issued by IMS and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: 1991 Museum Assessment Program Grant Application and Information.

Form No.: 105.

Respondents: Non-Profit Institutions.

Use: Application for funding.

Estimated Number of Respondents: 300.

Frequency of Response: Once.

Estimated Hours for Respondents to Provide Information: 1 per respondent.

Estimated Total Annual Reporting and Recording Burden: 600 Hours.

Linda Bell,

Director of Policy Planning and Budget.

[FR Doc. 90-19479 Filed 8-17-90; 8:45 am]

BILLING CODE 7036-01-M

Notice of Meeting; Music Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Festivals Section) to the National Council on the Arts will be held on September 5, 1990, from 9 a.m.-8 p.m. and on September 6 from 9 a.m.-5 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on September 6 from 4 p.m.-5 p.m. The topic will be policy and issues and guidelines.

The remaining portions of this meeting on September 5 from 9 a.m.-8 p.m. and on September 6 from 9 p.m.-4 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of August 7, 1990, as amended, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any intrested persons may attend, as observers, meetings, or portions thereof, of advisory panels which are open to the public.

Members of the public attending an open session of a meeting will be permitted to participate in the panel's discussions at the discretion of the chairman of the panel if the chairman is a full-time Federal employee. If the chairman is not a full-time Federal employee, then public participation will be permitted at the chairman's discretion with the approval of the full-time Federal employee in attendance at the meeting, in compliance with this guidance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: August 15, 1990.

Martha Y. Jones,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 90-19497 Filed 8-17-90; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by September 17, 1990. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The applications received are as follows:

1. *Applicant:* Diane McKnight, Water Resources Division,U.S. Geological Survey, Denver, Colorado 80225.

Activity for which permit requested: Enter site of Special Scientific Interest. The applicant requests permission to enter Site of Special Scientific Interest No. 12 to install and operate a stream flow measuring device.

Location: Canada Glacier, Lake Fryxell, Taylor Valley, Victoria Land, Antarctica.

Dates: October 30, 1990-February 1, 1992.

2. *Applicant:* G. A. McFeters, Department of Microbiology, Montana State University, Bozeman, Montana 59917.

Activity for which permit requested: Introduction of non-indigenous species into Antarctica. The applicant requests permission to take three bacterial cultures to McMurdo station to be used in a study of enteric bacteria. The specimens will not be released into the environment.

Location: McMurdo Station, Antarctica.

Dates: October 1990-December 1990.

Charles E. Myers,

Polar Coordinating Specialist, Permit Office.

[FR Doc. 90-19455 Filed 8-17-90; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-322]

Environmental Assessment and Finding of No Significant Impact; Long Island Lighting Co.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a limited scope exemption from the requirements of 10 CFR part 26 to the Long Island Lighting Company (LILCO, the licensee) for the Shoreham Nuclear Power Station, Unit 1, located in Suffolk County, New York.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant a limited scope exemption from the requirements of the Fitness for Duty Programs, 10 CFR part 26. Specifically, the proposed action would subject the

requirements of 10 CFR part 26 to only those persons who have unescorted access to the Reactor Building Primary Containment and Secondary Containment, Main Control Room, Relay Room, Battery Room C, and the Central Alarm Station or to any other area, wherever located, which contains equipment available to support and maintain the continued safe storage or handling of spent fuel. By letter dated March 15, 1990, the licensee requested a limited scope exemption from 10 CFR part 26 as indicated above.

The Need for the Proposed Action

The full scope of the requirements of 10 CFR part 26 for a Fitness for Duty Program is designed for operating power reactors. In contrast, the licensee in its letter of January 12, 1990, committed not to place nuclear fuel back into the Shoreham reactor without prior NRC approval. This was confirmed by Confirmatory Order dated March 29, 1990, which provided that "the licensee is prohibited from placing any nuclear fuel into the Shoreham reactor vessel without prior approval from the NRC." Design basis accidents for a nuclear power facility in a defueled condition are associated with loss of fuel pool water inventory, fuel handling, or effluent releases. The request for a limited scope exemption from the requirements of 10 CFR part 26 is based on the above plant conditions and the licensee's intent not to resume power operations at Shoreham.

Environmental Impact of the Proposed Action

With the reactor in a defueled condition, there are no credible design basis accidents associated with an operating plant from start-up through full power operations. Design basis accidents for a nuclear power facility in a defueled condition are associated with loss of fuel pool water inventory, fuel handling, or effluent releases. The requirements of 10 CFR part 26 would still apply to persons who had unescorted access to areas required to support and maintain the continued safe storage or handling of spent fuel. Therefore, the post-accident radiological releases will not differ from those determined previously, and the proposed limited scope exemption does not otherwise affect facility radiological effluents, or occupational exposures. With regard to potential non-radiological impacts, the proposed exemption does not affect plant non-radiological effluents and has no other adverse environmental impact. Therefore, the Commission concludes there are no radiological or non-radiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded there is no environmental impact associated with the proposed exemption, any alternative either will have no environmental impact or will have a greater environmental impact.

The principal alternative to the proposed exemption would be to require the licensee to apply the requirements of 10 CFR part 26 to all persons granted unescorted access to protected areas, and the personnel required to physically report to the licensee's Technical Support Center or Emergency Operations Facility. Conforming to the full scope of the 10 CFR part 26 requirements will result in LILCO performing 300 chemical abuse tests, annually, that would not be required with a limited scope exemption. Such action would not enhance the protection of the environment and would result in an expenditure of licensee resources not required for public health and safety.

Alternate Use of Resources

This action does not involve the use of resources not considered previously in the Final Enviromental Statement for the Shoreham Nuclear Power Station.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based on the environmental assessment, the NRC staff concludes that the proposed action will not have an effect on the quality of the human environment.

For further details with respect to this action, see the licensee's request dated March 15, 1990, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and the Shoreham-Wading River Public Library, Route 25A, Shoreham, New York 11786.

Dated at Rockville, Maryland this 13th day of August 1990.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-19505 Filed 8-17-90; 8:45 am]

BILLING CODE 7590-01-M

Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission and Defense Nuclear Facilities Safety Board

AGENCY: Nuclear Regulatory Commission.

ACTION: Publication of memorandum of understanding.

SUMMARY: On June 22, 1990, the Nuclear Regulatory Commission (NRC) and the Defense Nuclear Facilities Safety Board (the Board) entered into a Memorandum of Understanding. The purpose of the MOU is to provide the basis for the Board to obtain assistance from the NRC on matters pertaining to the Board's responsibilities as well as administrative support for the Board's activities.

FOR FURTHER INFORMATION CONTACT: James L. Blaha, Assistant for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492-1703.

Dated at Rockville, Maryland, this 13th day of August 1990.

For the Nuclear Regulatory Commission.

James L. Blaha,

Assistant for Operations.

Purpose

The purpose of this Memorandum of Understanding is to provide the basis for the Defense Nuclear Facilities Safety Board (hereafter referred to as the Board) to obtain assistance from the U.S. Nuclear Regulatory Commission (NRC) (other than assistance from the ACRS) on matters pertaining to the Board's responsibilities as well as administrative support for the Board's activities.

Authority and Background

The National Defense Authorization Act for FY 1989, Public Law 100-456, added chapter 21 to the Atomic Energy Act of 1954, as amended, and established the Board to review and evaluate Department of Energy defense nuclear facilities. Section 1441 of the Act authorizes the Board to obtain advice of the staff of the NRC and the Advisory Committee on Reactor Safeguards on matters pertaining to the Board's responsibilities, with the consent of and under appropriate support arrangements with the NRC. In addition, the NRC will, consistent with the NRC's mission, provide the Board with requested administrative support. These technical and administrative support services will also be provided under the authority of the Economy Act of 1932, as amended.

Execution

Technical and administrative support services will be provided as agreed upon to the Board to meet the requirements of the National Defense Authorization Act for FY 1989. Each organization will designate a liaison officer who will direct and monitor all interactions between the two organizations.

The NRC liaison is James L. Blaha, Assistant for Operations, Office of the Executive Director for Operations. The Board liaison is Kenneth M. Pusateri, General Manager.

1. All requests for NRC assistance will be directed to the NRC liaison officer.

2. Requests for support of an on-going nature to be provided by NRC (e.g., contractual support) will be covered by an appendix to this MOU which must be approved by the Commission.

3. Request for support of an ad hoc or one-time nature will be handled as follows:

a. Informational requests or briefings requiring four staff hours or less may be made orally to the NRC liaison officer. When such support exceeds a total of 16 hours in any one month, additional requests for support must be submitted in writing.

b. Requests for assistance which are likely to require more than four hours, but less than 100 hours will be submitted in writing and must be approved by the Executive Director for Operations (EDO).

c. Requests for assistance which are likely to exceed 100 hours must be submitted in writing and approved by the Chairman, NRC.

4. The NRC will evaluate all requests to determine the amount of time needed to fulfill each request and so advise the Board. The NRC will make every attempt to fulfill each request within the Board's requested timeframe.

Amendments and Appendices

The NRC and the Board, by mutual agreement, may amend this document or enter into any supplementary agreement as they deem appropriate.

Limitations

The provisions of this document shall go into effect when signed by both the NRC and the Board, and shall remain in effect unless amended by mutual agreement or terminated by either party by providing 90 days written notice to the other party.

Dated: June 22, 1990.

John T. Conway,

Chairman, Defense Nuclear Facility Safety Board.

Dated: June 21, 1990.

James M. Taylor,

Executive Director for Operations, U.S. Nuclear Regulatory Commission.

[FR Doc. 90-19503 Filed 8-17-90; 8:45 am]

BILLING CODE 7590-01-M

Privacy Act of 1974; Republication of Systems of Records Notices

AGENCY: Nuclear Regulatory Commission.

ACTION: Republication of Systems of Records Notices.

SUMMARY: The Nuclear Regulatory Commission (NRC) has conducted a comprehensive review of all Privacy Act Systems of Records. The NRC is revising and republishing all its Systems of Records notices as a result of this review. None of these revisions requires an advance period for public comment. These revisions are minor, corrective, and administrative changes that do not meet the threshold criteria established by the Office of Management and Budget (OMB) for either a new or altered system of records. These changes are in compliance with OMB Circular No. A-130, Appendix I. The notices republished below are complete and accurate as of June 30, 1990.

FOR FURTHER INFORMATION CONTACT: Sarah N. Wigginton, Acting Chief, Directives and Special Publications Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7752.

SUPPLEMENTARY INFORMATION: The following is a republication of the NRC's revised Systems of Records notices. With three exceptions, these notices were last published in the **Federal Register's** 1987 Compilation, Volume V, pages 259-280. Earlier this year, the NRC created two new systems of records and extensively revised one existing system of records. The new and revised systems of records are as follows: NRC-1, Shared Information Network (SINET), was published in the **Federal Register** on February 27, 1990 (55 FR 6852), and became effective on March 29, 1990; NRC-7, Telephone Call Detail Records, was published in the **Federal Register** on February 16, 1990 (55 FR 5706), and became effective on March 19, 1990; and NRC-24, Government Property Accountability System (formerly called Property and Supply System), was published in the **Federal Register** on April 2, 1990 (55 FR 13864), and became effective on May 14, 1990.

PRIVACY ACT SYSTEMS NUCLEAR REGULATORY COMMISSION

NRC Systems of Records

1. Shared Information Network (SINET)--NRC.
2. Biographical Information Records--NRC.
3. [Revoked.]
4. Conflict of Interest Files--NRC.
5. Contracts Records Files--NRC.
6. [Revoked.]
7. Telephone Call Detail Records--NRC.
8. Employee Appeals, Grievances, and Complaints Records--NRC.
9. Equal Employment Opportunity Records Files--NRC.
10. Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records--NRC.
11. General Personnel Records (Official Personnel Folder and Related Records)--NRC.
12. Government Motor Vehicle Operators License Files--NRC.
13. Incentive Awards Files--NRC.
14. Employee Assistance Program Files--NRC.
15. National Standards Committee Membership Files--NRC.
16. Facility Operator Licensees Record Files (10 CFR Part 55)--NRC.
17. Occupational Injuries and Illness Records--NRC.
18. Investigative Offices Index, Files, and Associated Records--NRC.
19. Official Personnel Training Records Files--NRC.
20. Official Travel Records--NRC.
21. Payroll Accounting Records--NRC.
22. Personnel Performance Appraisals--NRC.
23. [Revoked.]
24. Government Property Accountability System--NRC.
25. Oral History Program-NRC.
26. [Revoked.]
27. Radiation Exposure Information and Reports System (REIRS) Files--NRC.
28. Recruiting, Examining, and Placement Records--NRC.
29. Nuclear Documents System (NUDOCS)--NRC.
30. Manpower Resource Tracking System Records--NRC.
31. Correspondence and Records, Office of the Secretary--NRC.
32. [Revoked.]
33. Special Inquiry File--NRC.
34. Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW) Correspondence Index and Associated Records--NRC.
35. Drug Testing Program Records--NRC.
36. Employee Locator Records Files--NRC.
37. Information Security Files and Associated Records--NRC.
38. Mailing Lists--NRC.
39. Personnel Security Files and Associated Records--NRC.
40. Facility Security Support Files and Associated Records--NRC.

These systems of records are those systems maintained by the Nuclear Regulatory Commission (NRC) which contain personal information about individuals, and from which personal information can be retrieved by reference to an individual identifier.

The notice for each system of records states the name and location of the record system, the authority for and manner of its operation, the categories of individuals that it covers, the types of records that it contains, the sources of information in those records, and the proposed "routine uses" of each system of records. Each notice also includes the business address of the NRC official who will inform interested persons of the procedures whereby they may gain access to and correct records pertaining to themselves.

One of the purposes of the Privacy Act, as stated in section 2(b)(4), is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal

agencies to "* * * disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information." The NRC intends to follow these principles in transferring information to another agency or individual as a "routine use," including assurance that the information is relevant for the purposes for which it is transferred.

PREFATORY STATEMENT OF GENERAL ROUTINE USES

The following routine uses apply to each system of records notice set forth below which specifically references this Prefatory Statement.

1. In the event that a system of records maintained by the NRC to carry out its functions indicates a violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rules, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. A record from this system of records may be disclosed, as a routine use, to a Federal, State, local, or foreign agency, if necessary, to obtain information relevant to an NRC decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal, State, local, or foreign agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course of discovery and in presenting evidence to a court, magistrate, administrative tribunal, or grand jury, including disclosures to opposing counsel in the course of settlement negotiations.

5. Disclosure may be made, as a routine use, to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

6. A record from this system of records may be disclosed, as a routine use, to an NRC contractor on a "need-to-know" basis for a purpose within the scope of the pertinent NRC contract. Such access will be granted to an NRC contractor by a system manager only after satisfactory justification has been provided to the system manager.

NRC-1

SYSTEM NAME:

Shared Information Network (SINET)--NRC.

SYSTEM LOCATION:

Office of Information Resources Management, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees, NRC contractors, Federal, State and local Government emergency points of contact, and public utility personnel at nuclear power plants.

CATEGORIES OF RECORDS IN THE SYSTEM:

For NRC personnel, records will contain name, grade, title, office, room, and telephone numbers. For non-NRC personnel, records will contain name, phone number, address, power plant responsibilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201 (1982).

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THEPURPOSES OF SUCH USES:

Information in these records may be used:

a. To identify personnel cognizant of or responsible for activities at nuclear power plants.

b. To identify personnel associated with specific NRC functions;

c. For the routine uses specified in paragraphs 1, 5, and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper files, and computer disks.

RETRIEVABILITY:

Accessed by individual or plant name.

SAFEGUARDS:

Computer files are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Computer files are maintained indefinitely.

SYSTEM MANAGER(S) ADDRESS:

Chief, Systems Development Branch, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is obtained from individuals, supervisors, utilities, and Federal, State, or local Governments.

NRC-2

SYSTEM NAME:

Biographical Information Records--NRC.

SYSTEM LOCATION:

Office of Governmental and Public Affairs, NRC, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Commissioners, members of the Atomic Safety and Licensing Board and Appeal Board Panels, and senior NRC staff members.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education and training, employment history, and other general biographical data relating to the Commissioners, members of the Atomic Safety and Licensing Board and Appeal Board Panels, and senior NRC staff members.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2241, 5841, 5843(a), 5844(a), 5845(a), and 5849 (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to the press;

b. To provide information to other persons and agencies requesting this information; and

c. For the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Maintained in unlocked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained until updated or association with NRC is discontinued, then destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Governmental and Public Affairs, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by each individual and approved for use by the individual involved.

NRC-3 [Revoked]

NRC-4

SYSTEM NAME:

Conflict of Interest Files--NRC.

SYSTEM LOCATION:

Primary system--Office of the General Counsel, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are employees, special Government employees, former employees, and consultants of NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to:

a. General biographical data (i.e., name, birth date, home address, position title, home and business telephone numbers, citizenship, educational history, employment history, professional society memberships, honors, fellowships received, publications, licenses, and special qualifications);

b. Financial status (i.e., nature of financial interests and in whose name held, creditors, character of indebtedness, interest in real property, monthly U.S. Civil Service Annuity, and status as Uniformed Services Retired Officer);

c. Certifications by employees that they and members of their families are in compliance with the Commission's stock ownership regulations;

d. Requests for approval of outside employment by NRC employees and NRC responses thereto;

e. Determination (i.e., no conflict or apparent conflict of interest, questions requiring resolution, steps taken toward resolution); and

f. Information pertaining to appointment (i.e., proposed period of NRC service, estimated number of days of NRC employment during period of service, proposed pay, clearance status, description of services to be performed and explanation of need for the services, justification for proposed pay, description of expenses to be reimbursed and dollar limitation, and description of Government-owned property to be in possession of appointee).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 734-735; 18 U.S.C. 201-209 (1988); Executive Order 12674, April 12, 1989; 10 CFR 0.735-29; 10 CFR 0.735-40 (1989).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide the Department of Justice, Office of Personnel Management, and/or Merit Systems Protection Board with information concerning an employee in instances where this office has reason to believe a Federal law may have been violated or where this office desires the advice of the Department, Office, or Board concerning potential violations of Federal law; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are maintained in file folders.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Retained in office file for 2 years after employee leaves position in which statement is required, or for 2 years after separation, whichever is earlier, then forwarded to the Federal Records Center in Suitland, Maryland.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies, or is derived from information he or she supplied, or comes from the office to which the individual is to be assigned.

NRC-5

SYSTEM NAME:

Contracts Records Files--NRC.

SYSTEM LOCATION:

Primary system--Division of Contracts and Property Management, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees substantially involved with contracting, such as Project Officers and Procurement Officials. Persons who are employed as NRC contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain personal information (such as technical qualifications, education, rates of pay, employment history) of contractors and their employees, and other contracting records. They also contain evaluations, recommendations, and reports of NRC procurement officials, assessment of contractor performance, and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2051, 2201, and 5845 (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to the Federal Procurement Data Center, Department of Health and Human Services, Defense Contract Audit Agency, General Accounting Office, and other Federal agencies for audits and reviews; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and computer disk.

RETRIEVABILITY:

Accessed by contract number, taxpayer identification number (TIN) and purchase order number; cross-referenced with the name of the contractor, vendor, project officer, procurement official, or contract manager.

SAFEGUARDS:

Maintained in unlocked conserver files. Access to and use of these records are limited to those persons whose official duties require such access. Computer files are password protected.

RETENTION AND DISPOSAL:

Contracts records are destroyed 6 years and 3 months after final payment. Purchase order records are destroyed 3 years after final payment. Records are destroyed through regular trash disposal system, except for confidential business (proprietary) information which is destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Contracts and Property Management, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal confidential business (proprietary) information.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the contractor or potential contractor or NRC employee.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-6 [Revoked]

NRC-7

SYSTEM NAME:

Telephone Call Detail Records--NRC.

SYSTEM LOCATION:

Office of Information Resources Management, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals assigned telephone numbers by the NRC, including current and former NRC employees and contractors who make local or long-distance telephone calls and individuals who received telephone calls placed from NRC telephones.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to use of the agency telephones to place local or long-distance calls, records indicating assignment of telephone numbers to employees, and records relating to the location of telephones.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201 (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By individual employees of the agency to determine their individual responsibility for telephone calls; and

b. For the routine uses specified in paragraphs 1, 3, 5, and 6 of the Prefatory Statement.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12):

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper files, on computer tapes or disks.

RETRIEVABILITY:

Accessed by name, office, or telephone number.

SAFEGUARDS:

Maintained in lockable file cabinets or locked rooms. Computer files are password protected. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are destroyed after 5 years.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Telecommunications Branch, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Telephone assignment calls, call detail listings, results of administrative inquiries relating to assignment of responsibility for placement of specific telephone calls, and certification of telephone bills.

NRC-8

SYSTEM NAME:

Employee Appeals, Grievances, and Complaints Records--NRC.

SYSTEM LOCATION:

Primary system--Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment, current and former NRC employees, and annuitants who have filed complaints or initiated grievance or appeal proceedings as a result of a determination made by the NRC, Office of Personnel Management and/or Merit Systems Protection Board, or a Board or other entity established to adjudicate such grievances and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes all documents related to disciplinary actions, adverse actions, appeals, complaints, grievances, arbitrations, and negative determinations regarding within-grade salary increases. It contains information relating to determinations affecting individuals made by the NRC, Office of Personnel Management, Merit Systems Protection Board, arbitrators or courts of law. The records consist of the initial appeal or complaint, letters or notices to the individual, records of hearings when conducted, materials placed into the record to support the decision or determination, affidavits or statements, testimony of witnesses, investigative reports, instructions to an NRC office or division concerning action to be taken to comply with decisions, and related correspondence, opinions, and recommendations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(d) (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information to the Office of Personnel Management and/or Merit Systems Protection Board pursuant to applicable requirements related to grievances and appeals;

b. To provide appropriate data to union representatives and third parties (that may include the Federal Services Impasses Panel and Federal Labor Relations Authority) in connection with grievances, arbitration actions, and appeals; and

c. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, binders, index cards, and floppy disks.

RETRIEVABILITY:

These records are indexed by the names of the individuals on whom they are maintained.

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Source documents are retained 3 years after case is closed, then destroyed by shredding. Computer files are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Labor Relations, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individuals to whom the record pertains, NRC, Office of Personnel Management and/or Merit Systems Protection Board officials; affidavits or statements from employees, union representatives, or other persons; testimony of witnesses; official documents relating to the appeal, grievance, or complaint; Official Personnel Folder; and other Federal agencies.

NRC-9

SYSTEM NAME:

Equal Employment Opportunity Records Files--NRC.

SYSTEM LOCATION:

Office of Small and Disadvantaged Business Utilization and Civil Rights, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for NRC employment and current and former NRC employees who have filed a complaint of discrimination with the Office of Small and Disadvantaged Business Utilization and Civil Rights.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains copies of written reports by counselors; the investigative file; documentation of withdrawn, cancelled, rejected, and/or adjusted discrimination complaints; complainant's name, title, and grade; kind of discrimination alleged; description of action, decision, or condition giving rise to the complaint; description of remedial action; description of disciplinary action, if any; copy of the letter of proposed disposition of the complaint and right to a hearing; and record of appeals examiner's finding, analysis, and recommended decision.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2000e and 5891 (1982); Executive Orders 11246, September 24, 1965; 11375, October 13, 1967; 11478, August 8, 1969 and 12086, October 5, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information related to EEO matters to the Equal Employment Opportunity Commission and the Office of Personnel Management and/or Merit Systems Protection Board in accordance with applicable requirements; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, binders, index cards, and on computer disk.

RETRIEVABILITY:

Accessed by name.

SAFEGUARDS:

Maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are destroyed by shredding 3 years after the case is officially closed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Small and Disadvantaged Business Utilization and Civil Rights, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual to whom the record pertains, counselors, NRC, the Office of Equal Employment Opportunity Commission, the Office of Personnel Management and/or Merit Systems Protection Board officials, affidavits or statements from employees, testimony of witnesses, and official documents relating to the complaints.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552(c)(3), (d), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-10

SYSTEM NAME:

Freedom of Information Act (FOIA) and Privacy Act (PA) Requests Records--NRC.

SYSTEM LOCATION:

Primary system--Division of Freedom of Information and Publications Services, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; and at the NUDOCS Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have made FOIA or PA requests for NRC records.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains copies of the letters from requesters, the NRC response letters, and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552 and 552a (1988); 42 U.S.C. 2201 (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. If an appeal or court suit is filed with respect to any records denied;

b. For preparation of reports required by 5 U.S.C. 552 and 5 U.S.C. 552a; and

c. For any of the routine uses specified in the Prefatory Statement. Most of the FOIA records are placed in the NRC Public Document Room and made available to the public.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on microfiche, and on computer disks.

RETRIEVABILITY:

Accessed by chronologically assigned number and individual's name.

SAFEGUARDS:

Privacy Act records are maintained in locked file cabinets. FOIA records are maintained in locked rooms. Access to and use of these records are limited to those persons whose official duties require such access. Copies of most of the FOIA records are publicly available in the NRC Public Document Room.

RETENTION AND DISPOSAL:

PA records are retained in hard copy for 2 years from date of reply if request is granted, 6 years if denied, and 6 years from date of appeal, if appealed. The FOIA official files are retained on microfiche and may be destroyed after 6 years. Except for classified, proprietary, and other sensitive information which is destroyed by shredding, records are disposed of through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Requests are made by individuals or other requesters. The response to the request is based upon information contained in NRC records.

NRC-11

SYSTEM NAME:

General Personnel Records (Official Personnel Folder and Related Records)--NRC.

SYSTEM LOCATION:

Primary system--For Headquarters and Region V personnel, Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland. For the remaining Regional personnel, at Regional Offices I - IV listed in Addendum 1, Part 2.

Duplicate systems--Duplicate systems exist, in whole or in part at the locations listed in Addendum I, Parts 1 and 2, and at the National Institutes of Health Computer Facility, Bethesda, Maryland. The duplicate systems maintained in a particular office, division, or branch may contain information of specific applicability to employees in that organization in addition to that information contained in the primary system.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current NRC employees and those formerly employed by the NRC (and terminated through death, resignation, retirement, or separation).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain Personal Qualifications Statement (SF-171) and related documents such as information about an individual's birth date, social security number, veteran preference status, tenure, physical handicaps, past and present salaries, grades, position titles, training, test performances,

minority group designator, life insurance, health benefits, beneficiaries, academic letters of recommendation, probationary period appraisals, and awards. This system also contains notification of personnel action (SF-50) and documents supporting the action taken, letters of commendation and reprimand, documentation of charges and decisions on charges, medical records related to initial appointment, notices of reductions-in-force, and locator files. Some duplicate records may contain office-specific applications, personnel qualification statements (SF-171), resumes, conflict of interest correspondence, and other related personnel records in addition to those contained in the primary system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901; 42 U.S.C. 290dd-2; 42 U.S.C. 290ee-1 (1988); 42 U.S.C. 2201(d) (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management and/or Merit Systems Protection Board for making a decision when an NRC employee or former NRC employee questions the validity of a specific document in an individual's record;

b. To provide information to a prospective employer of a Government employee. Upon transfer of the employee to another Federal agency, the information is transferred to such agency;

c. To update the Office of Personnel Management systems concerning the Central Personnel Data File (CPDF), the Executive Inventory File, and security investigations index hires, and to update adverse actions and terminations records of the Merit Systems Protection Board;

d. To provide statistical reports to Congress, agencies, and the public on characteristics of the Federal work force;

e. To provide information to the Office of Personnel Management and/or Merit Systems Protection Board for review and audit purposes;

f. To provide members of the public with the names, position titles, grades, salaries, appointments (temporary or permanent), and duty stations of employees;

g. For medical records, to provide information to the Public Health Service in connection with Health Maintenance Examinations and to other Federal agencies responsible for Federal benefit programs administered by the Department of Labor (Office of Workmen's Compensation Programs) and the Office of Personnel Management; and

h. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, and computer disk.

RETRIEVABILITY:

Records are indexed by any combination of name, birth date, social security number, or identification number.

SAFEGUARDS:

Official Personnel Folders are maintained in lockable cabinets and related documents may be in unlocked file cabinets or an electromechanical file organizer. Access to and use of these records are limited to those persons whose official duties require such access. Computer files are password protected.

RETENTION AND DISPOSAL:

The Official Personnel Folder is sent to the next Federal employing office if the employee transfers, or to the National Personnel Records Center within 30 days of the date of the employee's separation from the Federal service. Some records, such as letters of reprimand, indebtedness, and vouchers, are maintained for 2 years, or destroyed by shredding when an individual resigns, transfers, or is separated from the Federal service. SF-7, "Service Record Card," information is retained indefinitely after separation or transfer.

SYSTEM MANAGER(S) AND ADDRESS:

For Headquarters and Region V non-SES employees and all NRC SES employees--Chief, Benefits and Operations Support, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For Region I-IV non-SES employees--The appropriate Regional Personnel Offices at the locations listed in Addendum I, Part 2.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies; is derived from information supplied by that individual; or is provided by agency officials, other Federal agencies, universities, or persons, including references, private and Federal physicians, and medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5) and (6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-12

SYSTEM NAME:

Government Motor Vehicle Operators License Files--NRC.

SYSTEM LOCATION:

Primary system--Administrative Service Center, Facility Management Branch, Division of Contracts and Property Management, Office of Administration, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems--Duplicate systems exist, in whole, or in part, at the locations listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NRC employees licensed to drive Government vehicles.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain identifying data on individuals including, but not limited to, name, social security number, hair color, and sex.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 491 (1988); Executive Order 10579, December 1, 1954.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on index cards and on paper in file folders.

RETRIEVABILITY:

Indexed alphabetically by employee name.

SAFEGUARDS:

Maintained in locked file cabinets under control of supervisors. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained for 3 years or until cancellation of individual license, whichever comes first, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Facility Management Branch, Division of Contracts and Property Management, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individuals on whom the record is maintained and medical examiners.

NRC-13

SYSTEM NAME:

Incentive Awards Files--NRC.

SYSTEM LOCATION:

Primary system--Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who merit special recognition for achievements either within or outside the employee's job responsibilities and for length of service to the Government. Awards include both NRC awards and awards of other agencies and organizations for which NRC employees are eligible.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains employee's name, title, office, grade, and salary; justification to support recommendation and authorization for cash award; actions by approving officials; record of individuals receiving awards; suggestions and evaluations of suggestions; citation to be used; and related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4501-4506, 5336 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Office of Personnel Management and/or Merit Systems Protection Board to process and approve nominations or awards;

b. By the Office of the Attorney General and the President of the United States in reviewing recommended awards;

c. To make reports to the Office of Personnel Management and/or Merit Systems Protection Board;

d. By other Government agencies to recommend whether suggestions should be adopted in instances where the suggestion made by an NRC employee affects the functions or responsibilities of the agencies; and

e. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and computer disk.

RETRIEVABILITY:

Information is accessed by name, type of award, office, and year of award.

SAFEGUARDS:

Maintained in locking file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

A copy is maintained in the Official Personnel File (NRC-11) indefinitely. A copy is maintained in a locking cabinet for 1 year, then destroyed by burning or shredding. Computer files and hardcopy logs are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Executive Resources and Organizational Development, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC employees, other Federal agencies, and Official Personnel Folders.

NRC-14

SYSTEM NAME:

Employee Assistance Program Files--NRC.

SYSTEM LOCATION:

Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees or family members who have been counseled by or referred to the Employee Assistance Program (EAP) for problems relating to alcoholism, drug abuse, job stress, chronic illness, family or relationship concerns, and emotional and other similar issues.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records of NRC employees or their families who have participated in the Employee Assistance Program and the results of any counseling or referrals which may have taken place. The records contain information as to the nature of each individual's problem, subsequent treatment, and progress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 290dd-1 and 290ee (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For statistical reporting purposes; and

b. Any disclosure of information pertaining to an individual will be made in compliance with the Confidentiality of Alcohol and Drug Abuse Patient Records regulation, 42 CFR Part 2, as authorized by 21 U.S.C. 1175 and 42 U.S.C. 4582, as amended.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer disk.

RETRIEVABILITY:

Information accessed by the EAP identification number and name of the individual.

SAFEGUARDS:

Files are maintained in a safe under the immediate control of the Employee Assistance Program Specialist.

RETENTION AND DISPOSAL:

Individually identifiable records are retained for 3 years after the case is closed, then destroyed by shredding. Statistical records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Specialist, Employee Assistance Program, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information compiled by the Specialist, Employee Assistance Program, during the course of counseling with an NRC employee or members of the employee's family.

NRC-15

SYSTEM NAME:

National Standards Committee Membership Files--NRC.

SYSTEM LOCATION:

Primary system--Office of Nuclear Regulatory Research, NRC, 5650 Nicholson Lane, Rockville, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the National Institutes of Health Computer Facility, Bethesda, Maryland and at locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who are serving on committees, subcommittees, working groups, etc., that are developing nuclear standards.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is a comprehensive record of NRC personnel on the national standards committees and contains members' names, the names of the committees to which they belong, and the names of the NRC offices in which the members work.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(b) (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information to persons or agencies requesting this information including, but not limited to, persons using the NRC Public Document Room; and

b. For the routine use specified in paragraph number 5 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on lists and computer tape and disk.

RETRIEVABILITY:

Records are indexed by the individual's name, by individual's office or region, and by the committee title.

SAFEGUARDS:

Maintained in unlocked file cabinet.

RETENTION AND DISPOSAL:

Updated when information is out-of-date. The information is retained until the person is no longer a member of the committee or no longer an NRC employee, whichever occurs first. Computer tape and disk are destroyed by computer deletion, and lists are destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies or from his or her supervisor.

NRC-16

SYSTEM NAME:

Facility Operator Licensees Record Files (10 CFR Part 55)--NRC.

SYSTEM LOCATION:

Primary system--Appropriate Regional Office at the address listed in Addendum I, Part 2.

Duplicate systems--Duplicate systems exist, in whole or in part, in the Operator Licensing Branch, Division of Licensee Performance and Quality Evaluation, Office of Nuclear Reactor Regulation, NRC, 11555 Rockville Pike, Rockville, Maryland; Systems Development Branch, Division of Computer and Telecommunications Services, Office of Information Resources Management, 7920 Norfolk Avenue, Bethesda, Maryland; and at the National Institutes of Health Computer Facility in Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals licensed pursuant to 10 CFR Part 55, new applicants whose applications are being processed, and individuals whose licenses have expired.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information pertaining to 10 CFR Part 55 applicants for a license, licensed operators, and individuals who previously held licenses. This includes applications for a license, license and denial letters, and related correspondence; correspondence relating to actions taken against a licensee; 10 CFR Part 50.74 notifications; certification of medical examination and related medical information; fitness for duty information; examination results and other docket information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2137 and 2201(i) (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To determine if the individual meets the requirements of 10 CFR Part 55 to take an examination or to be issued an operator's license;

b. To provide researchers with information for reports and statistical evaluations related to selection, training, and examination of facility operators;

c. To provide for examination and testing material and obtain results from contractors;

d. To provide facility management with sufficient information to enroll the individuals in the licensed operator requalification program; and

e. For any of the routine uses specified in paragraph numbers 1, 2, 4, 5, and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on index cards, paper logs, paper in file folders, and computer storage systems.

RETRIEVABILITY:

Records are accessed by name and docket number.

SAFEGUARDS:

Maintained in locked file cabinets or an area that is locked. Computer access requires password. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Reactor Operator Licensees Records: When case files have been inactive (i.e., after latest license expiration/termination/revocation, application denial or withdrawal, or issuance of denial letter), retired after 3 years to the Federal Records Center; and destroyed after 10 years.

b. Operator Licensing Tracking System: Retained as long as system is operational. Destroyed 2 years after system terminates.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Operator Licensing Branch, Division of Licensee Performance and Quality Evaluation, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual applying for a license, the Part 50 licensee, a licensed physician, members of the Operator Licensing Branch or Regional Operator licensing sections, and other NRC and contractor personnel.

NRC-17

SYSTEM NAME:

Occupational Injuries and Illness Records--NRC.

SYSTEM LOCATION:

Primary system--For Headquarters personnel, Director, Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland.

For Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who report an occupational injury or illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain descriptions of injury or illness, treatment, and disposition.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7902; 29 U.S.C. 657(c) (1988); Executive Orders 12196, February 26, 1980; 12223, June 30, 1980; 12608, September 9, 1987.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By the Agency Safety and Health Officer and/or the Chief, Benefits and Operations Support, Office of Personnel, to prepare periodic statistical reports on employees' health and injury status and health and safety hazards in NRC physical structures, all for transmission to and review by the Department of Labor;

b. For transmittal to the Secretary of Labor or an authorized representative in accordance with duly promulgated regulations;

c. For transmittal to the Office of Personnel Management and/or Merit Systems Protection Board as required to support individual claims; and

d. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders and on computer disk.

RETRIEVABILITY:

Indexed by assigned employee case number or name under report category.

SAFEGUARDS:

Maintained in locked file cabinet under visual control of section employees. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained until the employee leaves the agency, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC Public Health Unit, NRC Headquarters and Regional Office feeder reports, and forms with original information largely supplied by employees concerned.

NRC-18

SYSTEM NAME:

Investigative Offices Index, Files, and Associated Records--NRC.

SYSTEM LOCATION:

Primary System--Part A: Office of the Inspector General, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Part B: Office of Investigations, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals or entities referred to in potential or actual cases and matters of concern to the Investigative Offices and correspondents on subjects directed or referred to the Investigative Offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an alphabetical and/or numerical index file bearing individual names and/or identifiers and a numerical index of case numbers. The indices provide access to associated records which are arranged by subject matter, title, or identifying number(s) and/or letter(s). The system incorporates the records of the Investigative Offices' correspondence, cases, matters, memoranda, materials including, but not limited to, audit reports, investigative reports, inspection reports, confidential source information, correspondence to and from the Investigative Offices, memoranda, fiscal data, legal papers, evidence, exhibits, audit data, technical data, investigative data, work papers, and management information data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2035(c), 2201(c), and 5841(f) (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. A record in the system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency or to an individual or organization if the disclosure is reasonably necessary to elicit information or to obtain the cooperation of a witness or an informant;

b. A record in the system of records relating to a case or matter falling within the purview of the Investigative Offices that has been referred for audit, inspection, or investigation may be disclosed as a routine use to the referring agency, group, organization, or individual of the status of the case or matter or of any decisions or determinations that have been made;

c. A record in the system of records relating to an individual held in custody pending arraignment, trial, or sentence, or after conviction, may be disclosed as a routine use to a Federal, State, local, or foreign prison, probation, parole, or pardon authority, to any agency or individual concerned with the maintenance, transportation, or release of such an individual;

d. A record in the system of records relating to a case or matter may be disclosed as a routine use to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

e. A record in the system of records may be disclosed as a routine use to a Federal, State, local, or foreign law enforcement agency to assist in the general crime prevention and detection efforts of the recipient agency or to provide investigative leads to such agency;

f. A record in the system of records in the nature of an audit, inspection, or investigation report relating to the integrity and efficiency of the Commission operation and management may be disseminated outside the Commission as part of the Commission's responsibility to inform the Congress and the public about Commission operations; and

g. A record in the system of records may be disclosed for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information contained in this system is stored manually on index cards and in file jackets and in various ADP storage media.

RETRIEVABILITY:

Information is retrieved from index cards or indices by the name or identifier of the individual or entity and from the jackets or files by number(s) and/or letter(s) assigned and appearing on the index cards or indices.

SAFEGUARDS:

The index is maintained in approved storage containers and lockable file cabinets; and the indices, associated records, disks, tapes, etc., are located in lockable metal filing cabinets, safes, storage rooms, or similar secure facilities. All records are under visual control during duty hours and available only to authorized personnel whose duties require access and a "need to know."

RETENTION AND DISPOSAL:

Audit records are retained 5 years from the time the case is closed, then destroyed by shredding or erasure (ADP). Investigative records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Part A: Inspector General, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Part B: Director, Office of Investigations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORDS ACCESS PROCEDURES:

Same as "Notification procedure." Information classified pursuant to Executive Order 12356 will not be disclosed. Information received in confidence will be maintained pursuant to the Commission's Policy Statement on Confidentiality, NRC Manual Chapter 0517, "Management of Allegations," other procedures concerning confidentiality as determined by the Inspector General, and the procedures covering confidentiality in Chapter 7 of the Office of Investigations Procedure Manual, and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, NRC officials and employees; employees of Federal, State, local, and foreign agencies; and other persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-19

SYSTEM NAME:

Official Personnel Training Records Files--NRC.

SYSTEM LOCATION:

Primary system--Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for or were selected for either NRC or other Government/non-Government training courses or programs, including the NRC Senior Executive Service Candidate Development Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the individual's educational background, work experience, performance appraisals, and training courses, including applications for training, training requests, authorizations for training, evaluations, and other related personnel information and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3396; 5 U.S.C. 4103 (1988); Executive Order 11348, April 20, 1967, as amended by Executive Order 12107, December 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be:

a. Extracted from the records and made available to the Office of Personnel Management; other Federal, State, and local Government agencies; and educational institutions for use in training programs related to NRC employees; and

b. Disclosed for the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Official forms are maintained on paper in file folders for 5 years; training data is maintained in the Automated Personnel System. The original training request and completion certificates are filed in the Official Personnel Folder (NRC-11).

RETRIEVABILITY:

Information is accessed by name or social security number.

SAFEGUARDS:

Paper is maintained in locked file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Paper forms are retained for 5 years, then destroyed by shredding. ADP training file is maintained indefinitely for statistical and historical reference.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom it applies, the employee's supervisor, and training groups, agencies, or educational institutions and learning activities.

NRC-20

SYSTEM NAME:

Official Travel Records--NRC.

SYSTEM LOCATION:

Primary system--Division of Accounting and Finance, Office of the Controller, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, prospective NRC employees, consultants, and invitational travelers for NRC programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain Request and Authorization for Official Travel forms and Travel Vouchers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701; 31 U.S.C. 1104, 1108, 3511, 716, 3512, 3701, 3711, 3717, 3718 (1988); Federal Travel Regulations, 41 CFR Parts 301-304; Federal Property Management Regulations, 41 CFR Part 101-71.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For transmittal to the U.S. Treasury for payment;

b. For transmittal to the Department of State or an embassy for passports or visas; and

c. For any of the routine uses specified in the Prefatory Statement.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in file folders, on disks, and on magnetic tape.

RETRIEVABILITY:

Records are accessed by name, social security number, authorization number, and voucher payment schedule number.

SAFEGUARDS:

Maintained in locked file cabinets in same room as users. For ADP records, an identification number, a password, and assigned access to specific programs are required in order to retrieve information.

RETENTION AND DISPOSAL:

Retained for 5 years, then destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Accounting and Finance, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the individual, the organizational component approving the travel, outside transportation agents, and rate books for cost information.

NRC-21

SYSTEM NAME:

Payroll Accounting Records--NRC.

SYSTEM LOCATION:

Primary system--Division of Accounting and Finance, Office of the Controller, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the

locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, special Government employees, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pay, leave, and allowance histories.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 1104, 1108, 3511, 716, 3512, 3701, 3711, 3717, 3718 (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes including the withholding and reporting of Thrift Savings Plan deductions to the Department of Agriculture's National Finance Center;

b. For reporting tax withholding to Internal Revenue Service and appropriate State and local taxing authorities;

c. For FICA deductions to the Social Security Administration;

d. For dues deductions to labor unions;

e. For withholding for health insurance to the insurance carriers and the Office of Personnel Management;

f. For charity contribution deductions to agents of charitable institutions;

g. For annual W-2 statements to taxing authorities and the individual;

h. For transmittal to the Office of Management and Budget for review of budget requests;

i. For withholding and reporting of retirement, reemployed annuitants, and life insurance information to the Office of Personnel Management;

j. For transmittal of information to State agencies for unemployment purposes; and

k. For any of the routine uses specified in the Prefatory Statement.

DISCLOSURES TO A CONSUMER REPORTING AGENCY:

Disclosures pursuant to 5 U.S.C. 552a(b)(12):

Disclosures of information to a consumer reporting agency are not considered a routine use of records. Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, microfiche, magnetic tape, and disks.

RETRIEVABILITY:

Accessed by name and social security number.

SAFEGUARDS:

File folders, microfiche, tape, and disks, including backup data, are maintained in secured locked rooms after working hours. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

File folders are retained for 3 years after transfer or separation of employee, then destroyed by shredding. ADP information is retained on disks for 1 year, transferred to and retained on magnetic tape for 3 years, then the tape is erased.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Accounting and Finance, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the individual and the Office of Personnel.

NRC-22

SYSTEM NAME:

Personnel Performance Appraisals--NRC

Part A: GG-18 employees and below, hourly wage employees, scientific and technical schedule employees, and administratively determined rate employees.

Part B: Senior Executive Service and equivalent employees.

SYSTEM LOCATION:

Primary system--Part A: For Headquarters and Region V personnel, Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland. For the remaining Regional personnel, at the Regional Offices I-IV listed in Addendum I, Part 2.

Part B: Chief, Executive Resources and Organizational Development, Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains performance appraisals and other related records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 4301, et seq.; 5 U.S.C 4311 et seq. (1988); and 42 U.S.C. 2201(d) (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. By agency management and the Office of Personnel for personnel functions; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on paper in folders in locking file cabinets.

RETRIEVABILITY:

Records are accessed by name.

SAFEGUARDS:

Maintained in lockable file cabinets. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Part A: Records are normally retained for 3 years, then destroyed by incineration. If an employee separates, the records are forwarded to the next Government Agency employer or to the National Personnel Records Center.

Part B: Retained for 5 years, or until the fifth annual appraisal is completed, whichever is later, then destroyed by incineration. If the employee separates, the records are forwarded to the next Government Agency employer or to the National Personnel Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Part A: Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555. For the remaining Regional personnel, at the Regional Offices I-IV listed in Addendum I, Part 2.

Part B: Chief, Executive Resources and Organizational Development, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure"

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure"

RECORD SOURCE CATEGORIES:

Part A: Individual to whom record pertains and employee's supervisors.

Part B: Individual to whom record pertains and employee's supervisors; any documents and sources used to develop critical elements and performance standards for that Senior Executive Service position.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-23 [Revoked]

NRC-24

SYSTEM NAME:

Government Property Accountability System--NRC.

SYSTEM LOCATION:

Primary System--

a. Property and Procurement Branch, Division of Contracts and Property Management, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland;

b. Office of the General Counsel, NRC, 11555 Rockville Pike, Rockville, Maryland;

c. Telecommunications Branch, Division of Computer and Telecommunications Services, Office of Information Resources Management, NRC, 7920 Norfolk Avenue, Bethesda, Maryland;

d. Information and Records Management Branch, Division of Information Support Services, Office of Information Resources Management, NRC, 7735 Old Georgetown Road, Bethesda, Maryland;

e. Library Services Section, Information and Records Management Branch, Division of Information Support Services, Office of Information Resources Management, NRC, 7920 Norfolk Avenue, Bethesda, Maryland;

f. Office Automation and Network Development Branch, NRC, 7920 Norfolk Avenue, Bethesda, Maryland; and

g. Facility Management Branch, Division of Contracts and Property Management, Office of Administration, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate Systems--Duplicate systems exist, in whole or in part, at locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees and contractors who have custody of Government property.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information about the equipment (type, make, model, serial number, location, etc.), and information about the custodians of the equipment (name, social security number, office, and office location).

a. Procurement and Property Branch--Major items of equipment (e.g., office furnishings, automobiles, etc.) and items of sensitive property (e.g., cameras, portable calculators, and cassette recorders);

b. Law Library--Books and Regulations;

c. Telecommunications Branch--Telecommunications Property (e.g., pagers, modems, credit cards);

d. Library Services Section--Books and Library Materials;

e. Information and Records Management Branch--Record/Nonrecord Holdings;

f. Office Automation and Networking Branch--ADP Equipment and Software; and

g. Facility Management Branch--Parking permits for NRC-controlled parking spaces.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 3511; 40 U.S.C. 483(b), (c)and 487(a) (1988).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To maintain an inventory and accountability of Government property;

b. To provide information for clearances of employees who separate from the NRC; and

c. For any of the routine uses specified in paragraph numbers 1, 3, 5, and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on NRC forms and automated systems, with history and audit files.

RETRIEVABILITY:

Accessed by name, social security number, office, and office location.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Hardcopy records are retained for up to 3 years after an individual's responsibility for the assigned equipment terminates; then destroyed by shredding or in regular trash disposal system. Automated records are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

a. Chief, Property and Procurement Branch, Division of Contracts and Property Management, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555;

b. Chief, Program Support Branch, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555;

c. Chief, Telecommunications Branch, Division of Computer and Telecommunications Services, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555;

d. Chief, Library Services Section, Information and Records Management Branch, Division of Information Support Services, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555;

e. Chief, Information and Records Management Branch, Division of Information Support Services, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555;

f. Chief, Office Automation and Networking Branch, Division of Computer and Telecommunications Services, Office of Information and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and

g. Chief, Facility Management Branch, Division of Contracts and Property Management, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from NRC forms signed by the individuals having custody of the items, or from reports and memoranda received by the Systems Managers.

NRC-25

SYSTEM NAME:

Oral History Program--NRC.

SYSTEM LOCATION:

Office of the Secretary of the Commission, NRC, 11555 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, former employees, and other individuals who volunteer to be interviewed for the purpose of providing information for a history of the nuclear regulatory program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of interviews on magnetic tape and transcribed scripts of the interviews.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2161b (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For incorporation in a future publication on the history of the nuclear regulatory program; and

b. To provide information to historians and other researchers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on magnetic tape and transcripts.

RETRIEVABILITY:

Information is accessed by the name of the interviewee.

SAFEGUARDS:

Maintained in locked file room. Access to and use of these records are limited to those authorized by the Historian or a designee.

RETENTION AND DISPOSAL:

Transcripts are retained indefinitely. Tapes are normally retained until they are transcribed; some may be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

NRC Historian, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from interviews granted on a voluntary basis to the Historian and his or her staff.

NRC-26 [Revoked]

NRC-27

SYSTEM NAME:

Radiation Exposure Information and Reports System (REIRS) Files--NRC.

SYSTEM LOCATION:

Primary system--Science Applications International Corporation (SAIC), 1710 Goodridge Drive, McLean, VA 22102.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals monitored for radiation exposure while employed by or visiting or temporarily assigned to certain NRC-licensed facilities; individuals who are exposed to radiation or radioactive materials in incidents required to be reported pursuant to 10 CFR 20.403 and 20.405 by all NRC licensees; individuals who may have been exposed to radiation or radioactive materials offsite from a facility, plant installation, or other place of use of licensed materials, or in unrestricted areas, as a result of an incident involving byproduct, source, or special nuclear material.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to an individual's name, sex, social security number, birth date, job category, period of employment, place and period date of exposure; name, address, and license number of individual's employer; name and number of licensee reporting the information; radiation doses or estimates of exposure received during this period, type of radiation, part(s) or organ(s) exposed, and nuclide(s) involved. Some reports will indicate whether the individual is a contractor or a utility employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, and 2201(o) (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide data to other Federal and State agencies involved in monitoring and/or evaluating radiation exposure received by individuals as enumerated in the paragraph "Categories of individuals covered by the system"; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are computerized and maintained on magnetic tape, maintained in log books, and filed as either a computer printout or original paper document.

RETRIEVABILITY:

Records are accessed by individual name, social security number, and by licensee name or number.

SAFEGUARDS:

Information maintained at SAIC is accessible only to the Office of Nuclear Regulatory Research. Reports kept by the Office of Nuclear Regulatory Research are in file cabinets and bookcases in a secured building. A log is maintained of both telephone and written requests for information.

RETENTION AND DISPOSAL:

a. Original paper document--retained 2 years, then destroyed by shredding;

b. Magnetic tape--retained permanently at SAIC and/or the NRC;

c. Log books--retained indefinitely; and

d. Computer printouts--periodically updated, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the monitored worker, visitors, worker's employer, or the person in charge of the facility to which the worker has been assigned.

NRC-28

SYSTEM NAME:

Recruiting, Examining, and Placement Records--NRC.

SYSTEM LOCATION:

Primary system--For Headquarters personnel, Office of Personnel, NRC, 8120 Woodmont Avenue, Bethesda, Maryland. For Regional personnel, at each of the Regional Offices listed in Addendum I, Part 2.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for Federal employment with the NRC. NRC employees in the upward mobility and COOP program.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain general application information relating to the education, training, employment history, earnings, past performance, criminal convictions, if any, honors, awards or fellowships, military service, veteran preference status, birth date, social security number, home address and telephone numbers of persons who have applied for Federal employment with the NRC (SF-171, resumes, and similar documents). The records also contain personnel qualification statements, job descriptions, self-evaluation forms, examination results, supervisory evaluation forms, performance appraisals, upward mobility counselor's reports, training guides, course plans, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101 (1988); 42 U.S.C. 2000e;42 U.S.C. 2201(d) (1982); Executive Order 11478, August 8, 1969 as amended by Executive Order 11590, April 23, 1971; Executive Order 12106, December 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To furnish information to agencies related to transfer or consideration of employment;

b. To prepare reports for transmittal to the Office of Personnel Management and/or Merit Systems Protection Board; and

c. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained primarily on paper, forms, and lists in file folders. Also, certain data is maintained on computer disks.

RETRIEVABILITY:

Records are indexed by name and an identification number assigned to each individual.

SAFEGUARDS:

Maintained in unlocked file cabinet. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Active records are retained indefinitely;

b. Register of Eligible Applications--retained for 9 months from date of application or until no longer needed, then destroyed by shredding; and

c. Other related recruitment and placement documents--destroyed by shredding when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Recruitment and Staffing, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information was received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source. Testing material may not be disclosed to the extent such disclosure would compromise the testing process.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records either comes from the individual to whom it applies or is derived from information supplied by that individual, individual's current and previous supervisor within and outside NRC, upward mobility and COOP counselors and program coordinator, with the exception of reports from medical personnel on physical qualifications, results of examinations, preemployment evaluation data furnished by references and educational institutions whose names were supplied by applicant, and information from other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-29

SYSTEM NAME:

Nuclear Documents System (NUDOCS)--NRC.

SYSTEM LOCATION:

Primary system--NUDOCS Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; and the NRC Local Public Document Rooms (LPDRs) at the addresses indicated in NUREG/BR-0068; licensee locations, National Laboratories, and other locations utilizing NRC documents.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC staff, contractors, subcontractors, licensees, Congressional offices, and other correspondents with the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents both received by and originated by the NRC. No classified information is maintained in the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 5841; 44 U.S.C. 3101 (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in these records may be used:

a. To refer, where appropriate, inquiries to other Federal agencies or persons for their reply or action;

b. To provide information to persons or agencies requesting this information, including provision of Daily Accession Lists in the NRC PDR and LPDRs;

c. To prepare a monthly "Title List of Documents Made Publicly Available (NUREG-0540)";

d. To serve as the NRC's official record for documents placed in the system; and

e. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on microfiche, disks, tapes, and paper in file folders.

RETRIEVABILITY:

Accessed by name (author or recipient), corporate source, title of document, subject matter, or other identifying document or control number.

SAFEGUARDS:

Access to and use of NRC internal records are limited to NRC personnel. Information not exempt from disclosure under the Freedom of Information Act (FOIA) is publicly available in the NRC PDR and LPDRs.

RETENTION AND DISPOSAL:

Retention is for an indefinite period.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Document Control Branch, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the correspondence to and from the NRC, and NRC employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). This exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-30

SYSTEM NAME:

Manpower Resource Tracking System Records--NRC.

SYSTEM LOCATION:

Primary system--Division of Computer and Telecommunications Services, Office of Information Resources Management, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2, and at the National Institutes of Health Computer Facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the number of regular and nonregular hours worked, the nature of the work, and work load projections, scheduling and project assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(d) (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. As a project management tool in various management records throughout the NRC; and

b. For the routine uses specified in paragraph numbers 5 and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in computer files, computer records, on tapes, and disks.

RETRIEVABILITY:

Accessed by name, social security number, project, program, or activity numbers; docket number, TACS, or planned accomplishment numbers.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained indefinitely in computer files.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Computer and Telecommunications Services, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it pertains, individual's supervisors, and NRC management.

NRC-31

SYSTEM NAME:

Correspondence and Records, Office of the Secretary--NRC.

SYSTEM LOCATION:

Primary system--Office of the Secretary, Correspondence and Records Branch, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the Contractor Site, 7101 Wisconsin Avenue, Suite 1400, Bethesda, Maryland; and at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The majority of records in this system consist of internal NRC memoranda between NRC employees and the Chairman, a Commissioner, or the Secretary in the ordinary course of carrying out the official business of the NRC. Records also include correspondence from Members of Congress and their staffs including

constituent referrals and White House correspondence referred to the NRC for response as well as correspondence from representatives of industries and other groups affected by NRC regulations, and the general public. Correspondence may identify an individual's social security number, birth date, address, and employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information concerning all subjects which directly or indirectly relate to the fulfillment of NRC's statutory mandate. Records include information dealing with the policy, legal, administrative, and adjudicatory functions of the NRC.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 5841; 44 U.S.C. 3101 (1982).

ROUTINE USES RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in file folders, computer disks, and microfiche.

RETRIEVABILITY:

Records may be accessed by subject matter headings, author's last name, activity number, date of document, and date of receipt of document or file location.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access. Classified materials are maintained in approved safes, and unclassified records are maintained in file cabinets and rolling file equipment. Computer files are password protected.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Correspondence and Records Branch, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records comes from communications to the Commission and responses thereto.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-32 [Revoked]

NRC-33

SYSTEM NAME:

Special Inquiry File--NRC.

SYSTEM LOCATION:

Primary system--Special Inquiry Group, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals possessing information regarding or having knowledge of matters of potential or actual concern to the Commission in connection with the investigation of an accident or incident at a nuclear power plant or other nuclear facility, or an incident involving nuclear materials or an allegation regarding the public health and safety related to the NRC's mission responsibilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of an alphabetical index file bearing individual names. The index provides access to associated records which are arranged by subject matter, title, or identifying number(s) and/or letter(s). The system incorporates the records of all Commission correspondence, memoranda, audit reports and data, interviews, questionnaires, legal papers, exhibits, investigative reports and data, and other material relating to or developed as a result of the inquiry, study, or investigation of an accident or incident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2201(c), (i) and (o) and 5841(f) (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To provide information relating to an item which has been referred to the Commission or Special Inquiry Group for investigation by an agency, group, organization, or individual and may be disclosed as a routine use to notify the referring agency, group, organization, or individual of the status of the matter or of any decision or determination that has been made;

b. To disclose a record as a routine use to a foreign country pursuant to an international treaty or convention entered into and ratified by the United States;

c. To provide records relating to the integrity and efficiency of the Commission's operations and management and may be disseminated outside the Commission as part of the Commission's responsibility to inform the Congress and the public about Commission operations; and

d. For any of the routine uses specified in paragraph numbers 1, 2, 4, 5, and 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on microfiche, disks, tapes, and paper in file folders. Documents are maintained in secured vault facilities.

RETRIEVABILITY:

Accessed by name (author or recipient), corporate source, title of document, subject matter, or other identifying document or control number.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or safes in a secured facility and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Retained and destroyed in accordance with approved records disposal schedules for the various types of records involved.

SYSTEM MANAGER(S) AND ADDRESS:

Records Manager, Special Inquiry Group, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Information classified pursuant to Executive Order 12356 will not be disclosed. Information received in confidence will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from sources including, but not limited to, NRC officials and employees; Federal, State, local, and foreign agencies; NRC licensees; nuclear reactor vendors and architectural engineering firms; other organizations or persons knowledgeable about the incident or activity under investigation; and relevant NRC records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-34

SYSTEM NAME:

Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW) Correspondence Index and Associated Records--NRC.

SYSTEM LOCATION:

Primary system--Advisory Committee on Reactor Safeguards, NRC, 7920 Norfolk Avenue, Bethesda, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the National Institutes of Health Computer Facility, Bethesda, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons providing information to or requesting information from the ACRS or ACNW.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to incoming requests and correspondence from individuals and replies thereto and a listing of technical information by authors' names.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Indexing is maintained on computer tapes and disks and individual materials are located in ACRS and ACNW files in file folders and on microfilm.

RETRIEVABILITY:

Indexed by one or more of the following categories: Author and addressee's name, subject title using the Key Word Out of Context (KWOC) index, and issuing organization or agency.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Technical Information Group, Advisory Committee on Reactor Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Records contain information prepared by private individuals or organizations, Government agencies and their contractors, companies, and other groups such as the American National Standards Institute (ANSI).

NRC-35

SYSTEM NAME:

Drug Testing Program Records--NRC.

SYSTEM LOCATION:

Primary system--Division of Security, Office of Administration, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems--Duplicate systems may exist, in whole or in part, at the locations listed in Addendum 1, Parts 1 and 2; and at contractor testing laboratories and collection/evaluation facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including NRC employees applicants, consultants, and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information regarding the drug testing program; requests for and results of initial, confirmatory and followup testing, if appropriate; additional information supplied by NRC employees, employment applicants, consultants, or contractors in challenge to positive test results; and written statements or medical evaluations of attending physicians and/or information regarding prescription or nonprescription drugs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 7301 (note); 42 U.S.C. 290ee-3 (1988); Executive Order 12564, September 15, 1986; Pub.L. 100-71, "Supplemental Appropriations Act of 1987," Amendment No. 416, July 11, 1987; Pub.L. 100-440, Section 628, September 22, 1988; Federal Personnel Manual Letter 792-19, "Establishing a Drug-Free Federal Workplace," December 13, 1989.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used by the Division of Security and NRC management:

a. To identify substance abusers within the agency;

b. To initiate counseling and/or rehabilitation programs;

c. To take personnel actions;

d. To take personnel security actions; and

e. For statistical purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on index cards, and on computer disks. Specimens are maintained in appropriate environments.

RETRIEVABILITY:

Records are indexed and accessed by name, social security number, testing position number, specimen number, drug testing laboratory accession number, or a combination thereof.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access, with records maintained and used with the highest regard for personal privacy. Records in the Division of Security are stored in an approved security container under the immediate control of the Director, Division of Security, or designee. Records at other NRC locations and in laboratory/collection/evaluation facilities will be stored under appropriate security measures so that access is limited and controlled.

RETENTION AND DISPOSAL:

a. Test results, whether negative or positive, and other drug screening records filed in the Division of Security or at the locations listed in Addendum I, Parts 1 and 2, will be retained and retrieved as indicated under the Retrievability category. When an individual terminates employment or a contractual/consultant relationship with the NRC, negative test results will be destroyed by shredding, or by other approved disposal methods. Positive test results will be maintained through the administrative/judicial disposition and/or appeal rights of the tested party, at which time they will be destroyed by shredding, or by other approved disposal methods.

b. Test results, whether negative or positive, on file in contractor testing laboratories, will be maintained for a minimum of two years in the laboratories; or, upon instructions provided by the Division of Security, will be transferred to the Division of Security when the contract is terminated or whenever an individual, previously subjected to urinalysis by the laboratory, terminates employment or a contractual/consultant relationship with the NRC. Records received from the laboratories by the Division of Security will be incorporated into other records in the system or, if the individual has terminated, those records reflecting negative test results will be destroyed by shredding, or by other approved disposal methods. Positive test results will be maintained through the administrative/judicial disposition and/or appeal rights of the tested party, at which time they will be destroyed by shredding, or by other approved disposal methods.

c. Negative specimens will be destroyed according to laboratory/contractor procedures.

d. Positive specimens will be maintained through the administrative/judicial disposition and/or appeal rights of the tested party.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC employees, employment applicants, consultants, and contractors who have been identified for drug testing who have been tested, physicians making statements regarding medical evaluations and/or authorized prescriptions for drugs; NRC contractors for processing including, but not limited to, specimen collection, laboratories for analysis, and medical evaluations; and NRC staff administering the drug testing program to ensure the achievement of a drug-free workplace.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-36

SYSTEM NAME:

Employee Locator Records Files--NRC.

SYSTEM LOCATION:

Primary system--Part A: Telecommunications Branch, Division of Computer and Telecommunications Services, Office of Information Resources Management, 7920 Norfolk Avenue, Bethesda, Maryland.

Part B: Director, Office of Personnel, 8120 Woodmont Avenue, Bethesda, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees, contractors, and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to name, address (home and business), telephone numbers (home, business, and pager), organization, persons to be notified in case of emergency, and other related records.

AUTHORITY FOR MAINTENANCE OF THF SYSTEM:

44 U.S.C. 3101 (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used for:

a. Notification of employee in case of an emergency;

b. Notification of employee regarding matters of official business;

c. Verification of accuracy of and update of Automated Payroll System file on employee home addresses and zip codes;

d. Conducting statistical studies, and

e. The routine use specified in paragraph number 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained within computerized telephone directory systems and on hardcopy listings.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

Part A: System is maintained in controlled access room under 24-hour visual control of NRC operators.

Part B: System is maintained in a locked room. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Retained until 3 months after association with NRC is discontinued, then destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Part A: Chief, Telephone Operations Section, Telecommunications Branch, Division of Computer and Telecommunications Services, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Part B: Director, Office of Personnel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained, general personnel records, and other related records.

NRC-37

SYSTEM NAME:

Information Security Files and Associated Records--NRC.

SYSTEM LOCATION:

Primary system--Division of Security, Office of Administration, NRC, 11555 Rockville Pike, Rockville, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including present or former NRC employees, contractors, consultants and licensees; other Government agency personnel; and other cleared persons.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding:

a. Personnel who are authorized access to specified levels, categories and types of information, the approving authority, and related documents; and

b. Names of individuals who classify documents (e.g., for the protection of information relating to the U.S. national defense and foreign relations) as well as information identifying the document.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2165 and 2201(i) (1982); Executive Order 12356, April 2, 1982.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in this system may be used for any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained primarily in file folders, on disk, and index cards.

RETRIEVABILITY:

Indexed and accessed by name and/or assigned number.

SAFEGUARDS:

Maintained in locked buildings, containers, or security areas under guard and/or alarm protection, as appropriate.

RETENTION AND DISPOSAL:

a. Classified documents, administrative correspondence, document receipts, destruction certificates, classified document inventories, and related records--retained 2 years, then destroyed by shredding;

b. Top Secret Accounting and Control files: Registers--retained 5 years after documents shown on form are downgraded, transferred, or destroyed by shredding; Accompanying forms--retained until related document is downgraded, transferred, or destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Persons, including NRC employees, contractors, consultants, and licensees, as well as information furnished by other Government agencies or their contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1) and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of NRC regulations.

NRC-38

SYSTEM NAME:

Mailing Lists--NRC.

SYSTEM LOCATION:

Primary System--U.S. Government Printing Office, Superintendent of Documents, 941 North Capitol Street, NW., Union Center Plaza, 4th Floor, Washington, DC 20402.

Duplicate systems--Duplicate systems exist in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals with an interest in receiving information from the NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Mailing lists include primarily the individual's name and address. Some lists also include title, occupation, and institutional affiliation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101 (1982).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. For distribution of documents to persons and organizations listed on the mailing lists; and

b. For the routine use specified in paragraph number 6 of the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tape.

RETRIEVABILITY:

Records are accessed by company name and individual name.

SAFEGUARDS:

Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Documents requesting changes are retained 1 year, then destroyed through regular trash disposal system; lists are retained until cancelled or revised, then destroyed through regular trash disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Document Control Branch, Division of Information Support Services, Office of Information

Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

NRC licensees and individuals expressing an interest in NRC activities and publications.

NRC-39

SYSTEM NAME:

Personnel Security Files and Associated Records--NRC.

SYSTEM LOCATION:

Primary system--Division of Security, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2; and the Department of Energy, Headquarters Building, Germantown, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including NRC employees, employment applicants, consultants, contractors, and licensees; other Government agency personnel (e.g., General Services Administration personnel), other persons who have been considered for a personnel clearance, special nuclear material access authorization. NRC building access, access to Federal automated information systems or data, or participants in the criminal history program; aliens who visit NRC's facilities; and actual or suspected violators of laws administered by NRC.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to personnel, including name, address, date and place of birth, social security number, citizenship, residence history, employment history, foreign travel, foreign contacts, education, personal references, organizational membership, and security clearance history. These records also contain copies of personnel security investigative reports from other agencies (primarily from the Office of Personnel Management or the Federal Bureau of Investigation), summaries of investigative reports, results of Federal agency indices checks, records necessary for participation in the criminal history program, reports of personnel security interviews, clearance actions information (e.g., grants and terminations), access approval/disapproval actions related to NRC building access, or access to Federal automated information systems or data, violations of laws, reports of security infraction, "Request for Visit or Access Approval" (Form NRC-277), and other related personnel security processing documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 U.S.C. 318 (1988); 42 U.S.C. 2165 and 2201(i) (1982); Executive Order 12356, April 2, 1982; Executive Order 10865, February 20, 1960; 10 CFR Part 11 (1989); Pub. L. 99-399, "Omnibus Diplomatic Security/Anti-Terrorism Act of 1986"; OMB Circular No. A-130, December 12, 1985; Federal Personnel Manual Chapter 732 and authorities cited therein; and Pub. L. 99-500, October 18, 1986 (Continuing Appropriations).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used by the Division of Security and on a need-to-know basis by appropriate NRC officials, Hearing Examiners, Personnel Security Review Examiners, Office of Personnel Management, Federal Bureau of Investigation, and other Federal agencies:

a. To determine clearance or access authorization eligibility;

b. To determine eligibility for access to NRC buildings or access to Federal automated information systems or data;

c. To certify clearance or access authorization;

d. To maintain the NRC personnel security program;

e. To provide licensees information needed for their unescorted access or access to safeguard information determinations; and

f. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained primarily in file folders, on tape, disk, microfiche, and index cards.

RETRIEVABILITY:

Indexed and accessed by name, social security number, docket number, or case file number or a combination thereof.

SAFEGUARDS:

File folders and computer printouts are maintained in security or controlled areas under guard and/or alarm protection, as appropriate.

RETENTION AND DISPOSAL:

a. Personnel security clearance/access authorization files--retained 5 years from date of termination of access authorization or final administrative action, then may be destroyed by an approved method of destruction;

b. Request for Visit or Access Approval--maximum security areas retained 5 years after final entry or after date of document, as appropriate; Other areas: Retained 2 years after final entry or after date of document, then destroyed by approved method of destruction;

c. Other security clearance/access authorization administration files--retained 2 years after final entry or after date of document, then destroyed by approved method of destruction; and

d. Criminal history record computer files will be retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Persons including NRC applicants, employees, contractors, consultants, licensees, and visitors as well as information furnished by other Government agencies or their contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (5), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

NRC-40

SYSTEM NAME:

Facility Security Support Files and Associated Records--NRC.

SYSTEM LOCATION:

Primary system--Division of Security, Office of Administration, NRC, 7735 Old Georgetown Road, Bethesda, Maryland.

Duplicate systems--Duplicate systems exist, in whole or in part, at the locations listed in Addendum I, Parts 1 and 2.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons including present or former NRC employees, consultants, contractors, licensees; other Government agency personnel; and visitors to NRC facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information regarding NRC, NRC contractor, and NRC licensee facilities, security programs, and associated records; individuals visiting NRC facilities; NRC employees and NRC-related identification files maintained for access purposes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 2165 and 2201 (i) and (p) (1982); Executive Order 12356, April 2, 1982;

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in these records may be used:

a. To control access to NRC spaces by human or electronic means; and

b. For any of the routine uses specified in the Prefatory Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained primarily in file folders, on disk, and related forms.

RETRIEVABILITY:

Indexed and accessed by name, facility, badge number, identification card number, chronologically, or a combination thereof.

SAFEGUARDS:

Maintained in security containers or security areas under guard and/or alarm protection, as appropriate.

RETENTION AND DISPOSAL:

NRC employee and NRC-related identification files--retained 2 years following employee's termination, then destroyed by shredding or pulping; badges are destroyed immediately following the employee's termination.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Security, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

NOTIFICATION PROCEDURE:

Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure." Some information is classified pursuant to Executive Order 12356 and will not be disclosed. Other information has been received in confidence and will not be disclosed to the extent that disclosure would reveal a confidential source.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Persons including NRC employees, contractors, consultants, licensees, and visitors, as well as information furnished by other Government agencies or their contractors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(5) and (6), the Commission has exempted portions of this system of records from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). The exemption rule is contained in 10 CFR 9.95 of the NRC regulations.

Addendum I--List of U.S. Nuclear Regulatory Commission Locations

Part 1--NRC Headquarters Offices

a. Capitol Place, 80 F Street NW., Washington, DC.

b. East-West/West Towers Building, 4350 East West Highway, Bethesda, Maryland.

c. Gelman Building, 2120 L Street, NW., Washington, DC.

d. Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland.

e. Nicholson Lane/North Building, 5640 Nicholson Lane, Rockville, Maryland.

f. Nicholson Lane/South Building, 5650 Nicholson Lane, Rockville, Maryland.

g. One White Flint North Building, 11555 Rockville Pike, Rockville, Maryland.

h. Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland.

i. Woodmont Building, 8120 Woodmont Avenue, Bethesda, Maryland.

j. NRC Technical Training Center, Osborne Office Center, Suite 200, Chattanooga, Tennessee.

Part 2--NRC Regional Offices

a. NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania.

b. NRC Region II, 101 Marietta Street, NW., Suite 2900, Atlanta, Georgia.

c. NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois.

d. NRC Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas.

e. NRC Region IV Uranium Recovery Field Office, 730 Simms Street, Suite 100a, Golden, Colorado.

f. NRC Region V, 1450 Maria Lane, Suite 210, Walnut Creek, California.

Dated at Rockville, Maryland, this 3rd day of August 1990.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 90-19526 Filed 8-17-90; 8:45 am]

BILLING CODE 7590-01-D

[Docket Nos. 50-387 and 50-388]

Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing; Pennsylvania Power & Light Co., Allegheny Electric Cooperative Inc.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-14 and NPF-22 issued to Pennsylvania Power and Light Company, the licensee, and Allegheny Electric Cooperative Inc., for operation of Susquehanna Steam Electric Station, Units 1 and 2, located in Luzerne County, Pennsylvania.

The proposed amendments would extend the allowable Limiting Condition for Operation (LCO) outage time for suppression pool spray and cooling modes of operation of residual heat removal service water (RHRSW) and emergency service water (ESW) systems from 3 days to 7 days to allow modifications of RHRSW/ESW. The

LCO extension is requested on a one time basis only and will be effective during forthcoming refueling outages.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazard 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 staff has reviewed the following licensee's analysis in accordance with the requirements of 10 CFR 50.92, and concurs with the licensee's analysis and conclusions reached in its application dated February 12, 1990.

The proposed temporary changes do not:

(1) Involve an increase in the probability or consequences of an accident previously evaluated. The effect of increasing the Allowed Outage Time (AOT) from 3 days to 7 days on the plant response to a design basis event was considered. It was assumed that the planned 7 day outage of one ESW loop and one RHRSW loop fell within the AOT's for LCO's; therefore, no further single failures were required to be considered. It was also assumed that one unit is operating and the second unit is either in Condition 5 (refueling) or actually in the fuel movement process Condition *. Given that no further single failures need to be considered, the complement of equipment available for accident response was evaluated. For short term (less than 10 minutes) response to the postulated accident under the assumed conditions, the full complement of ECCS equipment is available because the ECCS pumps will operate for greater than ten minutes without motor or pump cooling, based on engineering studies. Therefore, the short term decay heat removal requirements are met for the accident unit. For long term (greater than 10 minutes) accident response, two RHR and all core spray pumps, are operable. The available RHRSW loop provides the required long term decay heat removal.

The accidents that were considered are the full range of loss of coolant accidents (LOCA's) with and without a concurrent Loss of Offsite Power (LOOP). Since the assumption of no further single failure was made, the LOOP and non-LOOP cases are equivalent because power to all eight ESS buses is assured in either case. In addition, the LOCA/false LOCA event did not need to be assessed for the RHRSW/ESW outage because the complicated series of failures required to produce a false LOCA signal was considered as a further single failure.

The requirements for long term accident response are: One ECCS pump (core spray or RHR) for level control and one decay heat removal loop, consisting of an RHR pump, an RHRSW pump and one RHR heat exchanger. Since one RHR pump in each of two loops, one decay heat removal loop and all core spray pumps are available for long term accident response, the long term decay heat removal requirements are also met for the accident unit.

For the unit in Condition 5 or *, long term decay heat removal is the only requirement. This requirement is easily accomplished using fuel pool cooling, provided that the water level requirements are met.

The ESW system does have other functions which apply to ECCS and post accident response systems such as cooling emergency switchgear rooms. One loop of ESW is sufficient to provide enough room cooling for the HPCI and RCIC rooms, by design. Therefore, cooling of these rooms is not of concern.

As a result of the above discussion, it is concluded that since the proposed RHRSW/ESW outage of 7 days is within the revised AOT for those systems, the plant design basis will not be compromised or violated and therefore, there is no increase in the probability or consequence of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously evaluated. As stated in part (1), the accidents that were considered are the full range of LOCA's with and without a concurrent LOOP. A full complement of ECCS equipment was assumed available for the short term response and one loop of decay heat removal for long term response. Any postulated accident occurring during this modification is bounded by previous analysis.

(3) Involve a reduction in the margin of safety. The main concern with the RHRSW/ESW modification from a safety margin viewpoint is its affect on RHR capability for both injection to the vessel and decay heat removal. Also, loss of one loop of the ESW system affects the DG Cooling and SBO. We have completed an extensive study comparing the present and modification unavailabilities of RHR (SPC and decay heat removal modes) DG Cooling and present and modification risks of SBO to determine the affect of the proposed temporary 7 day LCO extension on the margin of safety. In our analysis, we have taken the following compensatory measures to offset RHRSW/ESW subsystem unavailability: The ESW spray pond bypass valve will be open, the ESW transfer valves at the DG's will be open, we plan no system unavailability due to planned maintenance or test, we will verify proper valve positions to diminish the possibility of valve misalignments, we take credit for the non-operating unit RHRSW pump and finally we take credit for RWCU as an alternate means of heat removal. It should be mentioned that as a conservative measure we take no credit in our analysis for use of the main condenser as a heat sink or RHRSW/ESW system recovery during the 7 day LCO.

Our study shows that the modification unavailability of the heat removal function of the SPC/SPS mode of the RHR system and RHRSW system increases. This increase in unavailability is due to the fact that during the modification, only one RHR pump and one RHR HX will be available for SPC. The Technical Specification, 3.6.2 states that with one loop of the RHR unavailable for SPC, the AOT for the RHR system can be three days. However, since precedures are available for using the RWCU for decay heat removal from the vessel, we take credit for it to increase the AOT of the RHR system for SPC. Using the RWCU as an alternative for SPC, along with the precautionary measures outlined above, reduces the modification unavailability by 75.4%.

In addition to our analysis of the unavailability of the SPC mode of the RHR system, we considered the effect of ESW unavailability. The unavailability of DG cooling decreases during the modification by 71.9%. This is mainly due to the fact that the spray pond bypass valve will be opened with the ESW system in operation before the modification starts. Technical Specifications 3/4.7.1.2 states that with one loop of the ESW system unavailable, the ESW system can have a 3 day AOT. Verification of proper positioning of the valves in the ESW system and DG's contributes to this unavailability reduction, too.

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, 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 September 19, 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. Request for a hearing and petitions for leave to intevene 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 located at the Osterhout Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania, 18701. 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 intevene 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 fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirments 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 provided 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 petitioner 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 no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment 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 facilty, 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 signficant hazards consideration. The final detemination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Walter R. Butler, Director, Project Directorate I–2, Division of Reactor Projects I/II: (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 Shaw, Pittman, Potts & Trowbridge, 2300 N. Street, NW., Washington, DC 20037, 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 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 dated February 12, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC 20555, and at Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Rockville, Maryland, this 14th day of August 1990.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90-19504 Filed 8-17-90; 8:45 am]

BILLING CODE 7590-01-M

Atomic Safety and Licensing Board

[Docket No. 50-271-OLA-4. ASLBP No. 89-595-03-OLA]

Postponement of Prehearing Conference, Vermont Yankee Nuclear Power Corp., Vermont Yankee Nuclear Power Station

August 13, 1990.

Before Administrative Judges: Robert M. Lazo, Chairman, Jerry R. Kline, Frederick J. Shon.

Please take notice that the Prehearing Conference in this proceeding scheduled for August 21 and 22, 1990, in Brattleboro, VT, has been postponed to a date to be determined later.

The Licensing Board will contact counsel for the parties shortly to discuss dates convenient to all for rescheduling the Prehearing Conference.

It is so ordered.

For the Atomic Safety and Licensing Board.

Issued at Bethesda, Maryland, this 13th day of August 1990.

Robert M. Lazo,

Chairman, Administrative Judge.

[FR Doc. 90-19502 Filed 8-17-90; 8:45 am]

BILLING CODE 7590-01-M

PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS

Report Availability

The Presidential Commission on Catastrophic Nuclear Accidents has submitted its report to Congress pursuant to its authority under subsection 170 (1), of Public Law 100-408, the Price-Anderson Amendments Act of 1988. The Commission was created to conduct a comprehensive study of appropriate means of fully compensating victims of a catastrophic nuclear accident and to submit a final report to Congress no later than August 20, 1990.

Small quantities of the report are available from the Commission office, 600 E St., NW., room 660. For further information, contact Jerome Saltzman at 600 E St., NW., room 660, Washington, DC 20004, (202) 272-5695.

Dated: August 14, 1990.

Jerome Saltzman,

Executive Director, Presidential Commission on Catastrophic Nuclear Accidents.

[FR Doc. 90-19433 Filed 8-17-90; 8:45 am]

BILLING CODE 6820-SP-M

POSTAL RATE COMMISSION

[Docket No. A90-4 Order No. 873]

Wolf Run, OH (Frank Onduska, Petitioner); Order Accepting Appeal and Establishing Procedural Schedule

Issued August 14, 1990.

Docket Number: A90-4

Name of Affected Post Office: Wolf Run, Ohio 43970

Name(s) of Petitioner(s): Frank Onduska

Type of Determination: Closing

Date of Filing of Appeal Papers: August 1, 1990

Categories of Issues Apparently Raised:

1. Effect on postal services (39 U.S.C. 404(b)(2)(C)).
2. Effect on the community (39 U.S.C. 404(b)(2)(A)).
3. Compliance with procedural requirements (39 U.S.C. 404(b)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission Orders

(A) The record in this appeal shall be filed on or before August 16, 1990.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

Wolf Run, Ohio 43970

[Docket No. A90-4]

August 1, 1990—Filing of Petition.

August 14, 1990—Notice and Order of Filing of Appeal.

August 27, 1990—Last day of filing of petitions to intervene (*see* 39 CFR 3001.111(b)).

September 5, 1990—Petitioners' Participant Statement or Initial Brief (*see* 39 CFR 3001.115 (a) and (b)).

September 25, 1990—Postal Service Answering Brief (*see* 39 CFR 3001.115(c)).

October 10, 1990—Petitioners' Reply Brief should Petitioners choose to file one (*see* 39 CFR 3001.115(d)).

October 17, 1990—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).

November 28, 1990—Expiration of 120-day decisional schedule (*see* 39 U.S.C. 404(b)(5)).

[FR Doc. 90-19559 Filed 8-17-90; 8:45 am]

BILLING CODE 7710-FW-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 2433, Amdt. 4]

Declaration of Disaster Loan Area, Illinois

The above-numbered Declaration is hereby amended in accordance with an amendment dated August 2, 1990, to the President's major disaster declaration of June 22, to include the counties of Calhoun and Hamilton as a disaster area as a result of damages caused by severe storms, flooding, and tornadoes beginning May 15 and continuing through July 3, 1990.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Franklin, Greene, and Jersey in the State of Illinois may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

The termination date for filing applications for physical damage for victims located in the above-named counties will be September 10, 1990, 30 days from the date of this notice. For all other designated counties the deadline will remain August 21, 1990. For economic injury the termination date is March 22, 1991.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 10, 1990.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 90–19473 Filed 8–17–90; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2439, Amendment #3]

Declaration of Disaster Loan Area, Wisconsin

The above-numbered Declaration is hereby amended in accordance with an amendment dated August 1, 1990, to the President's major disaster declaration of July 13, to include the Counties of Manitowoc and Winnebago as a disaster area as a result of damages caused by severe storms, flooding, and tornadoes beginning on June 22 and continuing through July 19, 1990.

In addition, applications for economic injury loans from small businesses located in the contiguous Counties of Green Lake and Waushara in the State of Wisconsin may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for physical damage is September 12, 1990, and for economic injury until the close of business on April 15, 1991.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 9, 1990.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 90–19474 Filed 8–17–90; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06–0195]

Capital For Terrebonne, Inc.; Notice of Surrender of License

Notice is hereby given that Capital For Terrebonne, Inc. (Terrebonne), 27 Austin Drive, Houma, Louisiana 70360, has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act). Terrebonne was licensed by the Small Business Administration on January 24, 1978.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on August 1, 1990, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 10, 1990.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 90–19472 Filed 8–17–90; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

Foreign Assistance Determination; East Germany

Pursuant to section 620(f)(2) of the Foreign Assistance Act of 1961, as amended (22 U.S C 2370(f)(2)), and section 1–201(a)(10) of Executive Order No. 12163, as amended, I hereby determine that the removal of the German Democratic Republic from the application of section 620(f) of the Foreign Assistance Act is important to the national interest of the United States. I therefore direct that the German Democratic Republic be henceforth removed, for an indefinite period, from the application of section 620(f) of the Foreiqn Assistance Act, as amended.

This determination shall be reported to the Congress and published in the **Federal Register.**

Dated: July 12, 1990.

James A. Baker, III,

Secretary of State.

[FR Doc. 90–19451 Filed 8–17–90; 8:45 am]

BILLING CODE 4710-08-M

Study Group 7 of U.S. Organization for International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 7 (formerly Study Groups 2 & 7) of the U.S. Organization for the International Radio Consultative Committee (CCIR) will hold an open meeting August 30, 1990 at Atlantic Research Corporation, Capital Gallery Building, 600 Maryland Avenue SW., Washington, DC in Suite 700 commencing at 10 a.m.

Study Group 7 deals with matters relating primarily to the space research systems and standard frequency and time systems. The purpose of the meeting is to continue U.S. preparations for participation in the newly formed Interim Working Party, IWP 2/2, that is concerned with the 1992 World Administrative Radio Conference.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Request for further information should be directed to Mr. John Postelle, ARC Professional Services Group, Herndon, Virginia 22070, phone (703) 834–5607.

Dated: August 6, 1990.

Warren G. Richards,

Chairman, U.S. CCIR National Committee.

[FR Doc. 90–19453 Filed 8–17–90; 8:45 am]

BILLING CODE 4710-07-M

Interim Working Party 11/9 of U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Interim Working Party (IWP) 11/9 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will hold an open meeting on September 5, 1990, at the offices of Wiley, Rein, & Fielding, 1776 K Street NW., Washington, DC in the 4th Floor Conference Room commencing at 10 a.m.

IWP 11/9 deals with matters relating to the harmonization of HDTV standards between broadcast and non-broadcast applications.

The purpose of the meeting is to continue U.S. preparations for the first meeting of IWP 11/9 to be held in Tokyo, October 3–9, 1990.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Request for further information should be directed to the U.S. Representative to IWP 11/9, Mr. Alex D. Felker, Wiley, Rein, & Fielding, 1776 K Street NW., 12th Floor, Washington, DC 20006, phone (202) 828–3102.

Dated: August 6, 1990.

Warren G. Richards,

Chairman, U.S. CCIR National Committee.

[FR Doc. 90–19456 Filed 8–17–90; 8:45 am]

BILLING CODE 4710-07-M

Shipping Coordinating Committee; Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open public meeting at 10 a.m. on Wednesday, 5 September 1990, in room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The purpose of this meeting is to prepare for the upcoming 63rd Session

of the International Maritime Organization (IMO) Legal Committee scheduled for 17–21 September 1990.

The principal focus of the SHC public meeting will be discussion of the ongoing Legal Committee deliberations concerning the question of liability and compensation related to the maritime carriage of hazardous and noxious substances (HNS).

The tentative Legal Committee agenda also includes the following topics, each of which will be discussed briefly at the SHC public meeting:

1. Review of the draft International Convention on Oil Pollution Preparedness and Response which will be taken up by an IMO diplomatic conference scheduled for 19–30 November 1990;

2. Whether a diplomatic conference should be convened to take up the recently-completed Draft Convention on Maritime Liens and Mortgages prepared by the IMO/UNCTAD (United Nations Conference on Trade and Development) Joint Intergovernmental Group of Experts (JIGE) on Maritime Liens and Mortgages;

3. Whether the Legal Committee should undertake future work in respect of a possible international convention on wreck removal; and

4. Whether the Legal Committee should undertake future work in respect of a possible international convention on offshore mobile craft.

The views of the public, and particularly those of affected maritime commercial and environmental interests, are requested concerning each of the foregoing agenda topics.

Members of the public are invited to attend the SHC meeting, up to the seating capacity of the room.

For further information or to submit views concerning any of the topics to be addressed at the SHC meeting, contact either Captain Jonathan Collom or Lieutenant Commander Frederick M. Rosa, Jr., U.S. Coast Guard (G–LMI), 2100 Second Street, SW., Washington, DC. 20593, telephone (202) 267–1527, telefax (202) 267–4163.

Dated: August 6, 1990.

Thomas J. Wajda,

Chairman, Shipping Coordinating Committee.

[FR Doc. 90–19454 Filed 8–17–90; 8:45 am]

BILLING CODE 4710–07–M

Advisory Committee on International Investment; Meeting

The Department of State will hold a meeting of the Advisory Committee on International Investment on September 18, 1990 from 9 a.m. to 12 noon. The meeting will be held in Room 1105 at the Department of State, 2201 C Street, NW., Washington, DC 20520.

The agenda and approximate times topics will be discussed are as follows:

9:00 Review of agenda and introduction of first speaker by Professor Isaiah Frank of the Johns Hopkins School of Advanced International Studies.

9:05 Welcoming remarks by Assistant Secretary of State for Economic and Business Affairs Eugene J. McAllister. Assistant Secretary McAllister will provide a brief overview of investment policy related developments in Eastern Europe and Latin America.

9:20 Status report and main issues of investment/commercial agreements with the USSR, Poland, Czechoslovakia, Hungary and Yugoslavia.

10:00 Proposed legislation affecting foreign investment in the U.S.; Update on the Activities of the Committee on Foreign Investment in the U.S. (CFIUS).

10:30 Coffee.

10:45 Investment aspects of the President's Latin America Initiative: framwork agreements; the possible FTA with Mexico; status of current Bilateral Investment Treaty negotiations with Bolivia, Uruguay and Argentina.

11:20 Status report on negotiations in the GATT Uruguay Round on Treade Related Investment Measures (TRIMS) and Trade Related Intellectual Property (TRIPS)

11:45 New Business

12:00 Meeting concludes.

Access to the Department of State is controlled. Therefore, members of the public wishing to attend the meeting must notify the Office of Investment Affairs at (202) 647–2585 to arrange admittance. Please use the "C" Street entrance.

Dated: August 10, 1990.

Daniel T. Fantozzi,

Executive Secretary.

[FR Doc. 90–19490 Filed 8–17–90; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Reports, Forms, and Recordkeeping Requirements: Submittals to OMB on August 10, 1990

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements imposed upon the public which were transmitted by the Department of Transportation on August 10, 1990, to the Office of Management and Budget (OMB) for its approval in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

FOR FURTHER INFORMATION CONTACT: John Chandler, Susan Pickrel, or Cordelia Shepherd, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC 20590, telephone, (202) 366–4735, or Edward Clarke or Wayne Brough, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, (202) 395–7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for initial, approval, or for renewal under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements. OMB approval of an information collection requirement must be renewed at least once every three years.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "**FOR FURTHER INFORMATION CONTACT**" paragraph set forth above. Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "**FOR FURTHER INFORMATION CONTACT**" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 10 days from the date of publication are needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB on August 10, 1990.

DOT No: 3370

OMB No: 2120–0024

Administration: Federal Aviation Administration
Title: Dealer's Aircraft Registration Certificate Application, AC Form 8050–5
Need for Information: The information is needed to enable the Aircraft Registry to determine eligibility of an applicant to receive a Dealer's Certificate and issue the certificate to the correct name and address
Proposed Use of Information: The information is used to issue Dealer's Certificates to any individual or company engaged in manufacturing, distributing, or selling aircraft who wants to fly those aircraft with a dealer's certificate instead of registering them permanently in his name. The information is also used to provide a system of identification of aircraft dealers
Frequency: On occasion
Burden Estimate: 685 hours
Respondents: Individuals and companies engaged in manufacturing, distributing, or selling aircraft
Form(s): AC Form 8050–5
Average Burden Hours Per Respondent: 30 minutes
DOT No: 3372
OMB No: 2133–0012
Administration: Maritime Administration
Title: Requirements for Establishing U.S. Citizenship (46 CFR 355)
Need for Information: To implement statutory citizenship requirements—Required to obtain or retain a benefit
Proposed Use of Information: To determine compliance with statutory citizenship
Frequency: Annually
Burden Estimate: 2,000 hours
Respondents: 400
Form(s): None
Average Burden Hours Per Respondent: 5 hours
DOT No.: 3373
OMB No.: New
Administration: Federal Highway Administration
Title: Fatigue and Driver Alertness Study
Need for Information: To collect and analyze data on commercial driver fatigue
Proposed Use of Information: To improve the safety of trucking operations in response to the Congress request for FHWA to evaluate the impact of driver fatigue on commercial vehicle accidents
Frequency: One-time administrative
Total Estimated Burden: 7,405 hours
Respondents: Businesses
Form(s): None
Average Burden Hours Per Response: 2.1 hours
DOT No.: 3374
OMB No.: New
Administration: U.S. Coast Guard
Title: Marine Portable Tanks: Alteration
Need for Information: This information collection requirement is needed to enforce the laws and regulations promoting the safety of life and property in marine transportation
Proposed Use of Information: Coast Guard will use the information to approve alterations to marine portable tanks. This approval ensures that the altered tank retains the level of safety for which it was originally designed
Frequency: On occasion
Total Estimated Burden: 106 hours
Respondents: Owners or manufacturers of marine portable tanks
Form(s): None
Average Burden Hours Per Respondent: 53 hours
DOT No.: 3375
OMB No.: 2125–0039
Administration: Federal Highway Administration
Title: Highway Planning and Research Program Administration
Need for Information: To determine how the FHWA highway planning and research funds will be used by State highway agencies and to determine if proposed work is eligible for Federal participation
Proposed Use of Information: For the FHWA to monitor and evaluate programs toward meeting national highway planning and research goals
Frequency: Annually
Total Estimated Burden: State highway agencies
Respondents: 52
Form(s): None
Average Burden Hours Per Respondent: 375 hours for the submission of the annual work program and 82 hours for the submission of performance report
DOT— No: 3376
OMB No.: 2125–0028
Administration: Federal Highway Administration
Title: Highway Performance Monitoring System (HPMS)
Need for Information: For the FHWA to evaluate effectiveness of Federal-aid highway safety programs and future highway needs
Proposed Use of Information: To develop and implement legislation and respond to inquiries, including those from Congress
Frequency: Annually
Total Estimated Burden: 82,820 hours
Respondents: State highway agencies
Form(s): None
Average Burden Hours Per Respondent: 1,591 hours
DOT No.: 3377
OMB No.: 2133–0508
Administration: Maritime Administration
Title: Claims Against Maritime Administration Under the Federal Tort Claims Act (46 CFR Part 204)
Need for Information: Required to obtain a benefit
Proposed Use of Information: To administratively settle claims against the United States involving Maritime Administration under the Federal Tort Claims Act
Frequency: On occasion
Burden Estimate: 18 hours
Respondents: 9
Form(s): Standard Form (SF 95)
Average Burden Hours Per Respondent: 2 hours
DOT No.: 3378
OMB No.: 2133–0516
Administration: Maritime Administration
Title: Tug Operators Report
Need for Information: Tugs are needed for towing Ready Reserve Force vessels to activation facilities
Proposed Use of Information: To plan allocation of Ready Reserve Force vessels to specific layup locations and activation facilities and to establish activation priorities
Frequency: On occasion
Burden Estimate: 40 hours
Respondents: 120
Form(s): None
Average Burden Hours Per Respondent: .33 hours
DOT No.: 3379
OMB No.: 2115–0038
Administration: U.S. Coast Guard
Title: Application for Class I Private Aids to Navigation on Artificial Islands and Fixed Structures
Need for Information: This information collection requirement is needed for safe navigation as required under 33 CFR 66 and 67.
Proposed Use of Information: Coast Guard uses this information to ensure that the private aid is adequately marked for navigational purposes. This information is also passed to the public through radio broadcasts and nautical publications.
Frequency: On occasion
Burden Estimate: 250 hours
Respondents: Petroleum related companies
Form(s): CG–4143
Average Burden Hours Per Respondent: .5 hours
DOT No: 3380
OMB No: 2115–0133
Administration: U.S. Coast Guard
Title: Various Forms and Posting Requirements Under 46 CFR Concerning Commercial Vessel Inspection

Need for Information: This information collection requirement is necessary for proper administration of the Commercial Vessel Program.
Proposed Use of Information: In general Coast Guard uses this information to administer the commercial vessel program. This collection of information is used to: (1) Determine evidence of examination and compliance; (2) ensure that adequate safety is maintained on vessels when additional persons are allowed to be carried; (3) determine whether deviation is in order without affecting safety; (4) document inspection, construction, alteration, repair and maintenance of the vessels for safety of life and property at sea.
Frequency: On occasion
Burden Estimate: 3,286 hours
Respondents: Commercial vessel owners, operators, masters and agents
Form(s): CG–841, CG–854, CG–948, CG–950, CG–2832, CG–4504
Average Burden Hours Per Respondent: 5 minutes for reporting and 11 minutes for recordkeeping
DOT No: 3381
OMB No: 2115–0507
Administration: U.S. Coast Guard
Title: Cargo Pump System Test
Need for Information: This information collection requirement is needed to evaluate the safety of cargo pump systems used in transferring liquefied gas and dangerous cargo.
Proposed Use of Information: Coast Guard uses this information to determine regulatory compliance with testing requirements.
Frequency: Yearly
Burden Estimate: 1,402 hours
Respondents: Owners or operators of waterfront facilities
Form(s): None
Average Burden Hours Per Respondent: 8.5 hours
DOT No: 3382
OMB No: 2115–0549
Administration: U.S. Coast Guard
Title: Carriage and Use of Liquefied or Nonliquefied Flammable Gas as Cooking Fuels on Vessels Carrying Passengers for Hire
Need for Information: This information collection requirement is needed to ensure that operational safety is maintained on vessels which carry and use liquefied or nonliquefied flammable gas.
Proposed Use of Information: Crew members use this information to ensure safe operation of the cooking appliances.
Frequency: On occasion
Burden Estimate: 1,900 hours
Respondents: Owners/operators of passenger carrying vessels
Form(s): None
Average Burden Hours Per Respondent: 1 hour
DOT No: 3383
OMB No: 2115–0557
Administration: U.S. Coast Guard
Title: Advance Notice of Vessel Arrival and Departure and Waiver
Need for Information: This information collection requirement is needed to perform safety and security functions issued under the Ports and Waterways Safety Act of 1972. It is necessary to safeguard the United States against destruction, loss, or injury from sabotage or other subversive acts. This requirement is also needed to establish, operate, and maintain vessel traffic services.
Proposed Use of Information: Coast Guard uses this information for (1) vessel traffic supervision; (2) oil and hazardous spills; (3) firefighting contingency planning; (4) controlling vessels from Warsaw Pact nations and vessels from nations not permitted to enter U.S. Waters or certain U.S. Ports; (5) controlling free flag vessels carrying Communist country nationals in the crews; and (6) targeting certain type vessels for examination. It is also used to determine if a waiver of the regulations can be granted.
Frequency: On occasion
Burden Estimate: 52,475 hours
Respondents: Vessel Operators
Form(s): None
Average Burden Hours Per Respondent: .167 hours
DOT No: 3384
OMB No: 2115–0563
Administration: U.S. Coast Guard
Title: Non–Destructive Testing Proposal and Results for Pressure Vessel Cargo Tanks on Unmanned Barges
Need for Information: This information collection requirement is necessary for Coast Guard to ensure safe shipment of liquid bulk dangerous cargoes under 46 USC 3703. This requirement allows the Coast Guard to extend the internal inspection interval on vessels 30 years and older.
Proposed Use of Information: Coast Guard will use this information to determine if the proposed methods and procedures are acceptable and suitable for the purpose of detecting defects. The test results will enable the Coast Guard to accurately assess the condition of the tanks and to evaluate its suitability for continued service.
Frequency: Every 10 years
Burden Estimate: 52 hours
Respondents: Pressure Vessel Type Owners/operators
Form(s): None
Average Burden Hours Per Respondent: 12 hours
DOT No: 3385
OMB No: 2132-0530
Administration: Urban Mass Transportation Administration
Title: Nondiscrimination on the Basis of Handicap in Programs Receiving Financial Assistance from the Department of Transportation
Need for Information: To ensure that UMTA recipients are complying with the statutory provisions concerning transportation services for elderly and handicapped persons.
Proposed Use of Information: To indicate whether these recipients are providing the services planned.
Frequency: Annually and Triennially
Burden Estimate: 2,067 hours
Respondents: State or local governments, business or other for-profit, and small businesses or organizations.
Form(s): None
Average Burden Hours Per Respondent: 5.5 hours
DOT No: 3386
OMB No: 2137–0510
Administration: Research and Special Programs Administration
Title: RAM Transportation Requirements
Need for Information: To establish a central repository for designated state routes that may be used in the transportation of radioactive materials. This enables carriers to access one source rather than several in determining routes to be followed when transporting radioactive materials in interstate commerce.
Proposed Use of Information: To maintain a centralized source for information as to which routes have been designated by various states for use in transporting radioactive materials.
Frequency: On occasion
Burden Estimate: 12,711 hours
Respondents: State governments; carriers and shippers of radioactive materials
Form(s): None
Average Burden Hours Per Respondent: 14.3 hours
DOT No: 3387
OMB No: 2133–0030
Administration: Maritime Administration
Title: Supplementary Training Course Application
Need for Information: To facilitate course administration, management, and recordation.
Proposed Use of Information: Eligibility assessment, enrollment, attendance verification, and recordation.

Frequency: On occasion
Burden Estimate: 125 hours
Respondents: 2,500
Form(s): MA–823
Average Burden Hours Per Respondent: .05 hour
DOT No: 3388
OMB No: 2133–0024
Administration: Maritime Administration
Title: Subsidy Voucher—Operating-Differential Subsidy—Bulk Cargo Vessels
Need for Information: Required to obtain a Benefit
Proposed Use of Information: To determine subsidy payable for voyages performed in accordance with ODS agreements.
Frequency: Monthly and annually
Burden Estimate: 1,260 hours
Respondents: 21
Form(s): MA–790, SF–1034 and Supporting Schedules
Average Burden Hours Per Respondent: 2 hours
DOT No: 3389
OMB No: New
Administration: Federal Aviation Administration
Title: Readback/Hearback Error Survey
Need for Information: Readback/hearback errors have been identified as a constant concern in operational errors. To determine the causes of such errors, the FAA needs to determine the relationship of events in the cockpit environment to such errors.
Proposed Use of Information: If we can determine the causes of the read/back errors, solutions can be put in place to help reduce them.
Frequency: On occasion
Burden Estimate: 80 hours
Respondents: Individual pilots will actually fill out the questionnaire, however, the request will go through their employing air carrier.
Form(s): FAA Forms 7210–OT
Average Burden Hours Per Respondent: 30 minutes
DOT No: 3390
OMB No: New
Administration: U.S. Coast Guard
Title: Retrievability of Purchaser Information From State Vessel Registration and Numbering Systems
Need for Information: This information collection is needed to determine the accessibility of information on purchasers of recreational boats.
Proposed Use of Information: Coast Guard will use this information to (1) determine if information on the manufacturer and dealer first purchaser list is currently available; (2) determine the reliability of state vessel registration and numbering files; and (3) to determine the degree of complication or expense required to make State vessel registration systems capable of generating purchaser information.
Frequency: One time
Burden Estimate: 54 hours
Respondents: 54
Form(s): None
Average Burden Hours Per Respondent: 1 hour
DOT No: 3391
OMB No: 2215–0050
Administration: U.S. Coast Guard
Title: Bridge Permit Application Guide
Need for Information: This information collection is needed to evaluate plans and location to construct a bridge or causeway over the navigable waters of the U.S.
Proposed Use of Information: Coast Guard will use this information to evaluate the effect the structure will have on the reasonable needs of navigation and the human environment. Upon approval, this information is provided to the National Oceanic and Atmospheric Administration (NOAA). They use it to make corrections to navigation charts.
Frequency: On occasion
Burden Estimate: 3,580 hours
Respondents: 87
Form(s): None
Average Burden Hours Per Respondent: 40 hours

Issued in Washington, DC, on August 10, 1990.

Robert J. Woods,
Director of Information Resource Management.

[FR Doc. 90–19463 Filed 8–17–90; 8:45 am]

BILLING CODE 4910–62–M

[Docket 46928 Agreement CAB 1175, as amended order 90–8–33]

Application of the International Air Transport Association for Approval of Revised Traffic Conference Provisions

Issued by the Department of Transportation on the 15th day of August, 1990.

The U.S. Department of Transportation now has before it in this docket an application from the International Air Transport Association (IATA) for continued approval and antitrust immunity for IATA's Traffic Conference procedures. On August 6, 1990, the U.S. Department of Justice (DOJ) filed comments opposing continuation of approval for certain aspects of IATA's tariff coordination activities governed by the procedures.

The Department's procedures, in subpart E of 14 CFR part 303, do not provide an automatic right to respond to such comments. However, given the probable interest in the issues raised by the DOJ filing, the Department by this notice is authorizing the filing of responsive comments by any interested person, including U.S. and foreign air carriers and foreign governments. Such comments will be due by September 17, 1990, and will receive full consideration by the Department before it takes any action on the application.

Accordingly,

1. Any interested person may file comments in response to the application filed by IATA in Docket 46928, or to the comments filed by the U.S. Department of Justice or those filed by Mr. R.P. Holubowitz in that docket in response to the application.

2. The comments authorized by this notice must be filed by September 17, 1990.

3. We will publish this notice in the **Federal Register.**

Jeffrey N. Shane
Assistant Secretary for Policy and International Affairs.

[FR Doc. 90–19566 Filed 8–17–90; 8:45 am]

BILLING CODE 4910–62–M

Aviation Proceedings; Agreements Filed During the Week Ended August 10, 1990

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47114
Date filed: August 6, 1990
Parties: Members of the International Air Transport Association
Subject: South America-Southwest Pacific Expedited Resolutions
Proposed Effective Date: September 1, 1990
Docket Number: 47117
Date filed: August 9, 1990
Parties: Members of the International Air Transport Association
Subject: North Atlantic-Israel Expedited Resolutions
Proposed Effective Date: September 15, 1990
Docket Number: 47118
Date filed: August 9, 1990
Parties: Members of the International Air Transport Association
Subject: TC23 (To/From US Territories) Resolutions

Proposed Effective Date: October 1, 1990

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90-19462 Filed 8-17-90; 8:45 am]

BILLING CODE 4910-62-M

Maritime Administration

[Docket S-869]

Application for Modification of Section 804 Waiver to Operate Foreign-Flag Vessels; Mormac Marine Group, Inc.

Mormac Marine Group, Inc. (Mormac), by letter of August 6, 1990, requested an amendment of the section 804 waiver granted on November 2, 1988 which permitted the acquisition of an interest in or charter of nine foreign-flag crude and product tankers of 40,000 to 130,000 deadweight ton capacity. The requested amendment would modify the waiver so as not to be limited as to the number, size or type of vessel. The current waiver is effective until December 9, 1995, the expiration date of the subject Operating-Differential Subsidy Agreement, Contract MA/MSB-295.

Mormac believes that its request is consistent with the request of Brookville Shipping, Inc.; Liberty Maritime Corp.; and Philip Shapiro (collectively Brookville) that their pending section 804 waiver (Docket S-862) be revised to permit operation of dry, liquid, or combination bulk foreign-flag vessels without restrictions as to number of size.

Accordingly, Mormac states that both applications should be granted. As a result of changes in U.S. Government policies, Mormac advises, U.S.-flag operators cannot expand their operation in the foreign commerce of the United States. Mormac further advises that without any operating-differential subsidy (ODS) or construction-differential subsidy, no U.S.-flag operations can be undertaken. Under such circumstances, U.S.-flag operations can only achieve growth and expansion in the foreign-flay market. Mormac goes on to say that costs associated with older U.S.-flag vessels are rising. Therefore, if U.S. operators are to remain viable carriers, new business opportunities must be explored.

Mormac contends that its request for modification in its section 804 waiver will help assure that Mormac can support its title XI debt and its jobs for U.S. seamen. Mormac continues by stating that modern corporate structures and accounting methods provide ample assurance that operating subsidy will not benefit companies affiliated with an ODS operator and Mormac would provide every reasonable assurance that no such benefit will occur.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such application within the meaning of section 804 of the Act and desiring to submit comments concerning the application, must file written comments in triplicate with the Secertary, Maritime Administration, room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5 p.m. on September 4, 1990.

This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Administration will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies)).

By Order of the Maritime Administrator.

Dated: August 15, 1990.

James E. Saari,

Secretary.

[FR Doc. 90-19524 Filed 8-17-90; 8:45 am]

BILLING CODE 9410-81-M

Research and Special Programs Administration

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a Party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provided for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before August 30, 1990.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
2582-X	Advanced Research Chemicals, Inc., Catoosa, OK.	2582
2709-X	Atlantic Research Corporation, Gainesville, VA.	2709
2709-X	Atlas Powder Company, Dallas, TX.	2709
2709-X	Hercules, Inc., Wilmington, DE.	2709
2709-X	United Technologies Coporation, San Jose, CA.	2709
2709-X	IRECO, Incorporated, Salt Lake City, UT.	2709
4575-X	Racon, Inc., Wichita, KS	4575
4575-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	4575
4575-X	Linde Gases of the Southeast, Inc., Wilmington, NC.	4575
5022-X	McDonnell Douglas Space Systems Company, Huntington Beach, CA.	5022
5022-X	Hercules Aerospace Products Group, Magna, UT.	5022
5022-X	Aerojet Propulsion Division, Sacramento, CA.	5022
5022-X	Boeing Aerospace and Electronics, Seattle, WA.	5022
6434-X	Rhone-Poulenc Ag Company, Research Triangle Park, NC.	6434
6614-X	Jones Chemicals, Inc., LeRoy, NY.	6614
6614-X	Steelcrete Company, Novi, MI.	6614
6874-X	Goldstone Supply Corp., Sparks, NV.	6874
6922-X	Shin-Etsu Chemical Company, Limited, Tokyo, Japan.	6922
7052-X	Adcour, Inc., Sharon, MA	7052
7052-X	Smiths Industries, Grand Rapids, MI.	7052
7052-X	Fairchild Defense, Germantown, MD.	7052

Application No.	Applicant	Renewal of exemption
7227-X	Lox Equipment Company, Delphi, IN.	7227
7601-X	Atlantic Research Corporation, Gainesville, VA.	7601
7765-X	Carleton Technologies, Inc., Orchard Park, NY.	7765
7835-X	Airco, The BOC Group, Inc., Murray Hill, NJ.	7835
7846-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	7846
7873-X	Bromine Compounds, Limited, Beer-Sheva, Isreal.	7873
8063-X	Taylor-Wharton Cryogenics, Theodore, AL.	8063
8094-X	Milport Chemical Company, Milwaukee, WI.	8094
8119-X	BJ Services, Houston, TX.....	8119
8178-X	National Aeronautics & Space Administration (NASA), Washington, DC.	8178
8196-X	Eurotainer, S.A., Paris, France.	8196
8230-X	GFS Chemicals, Inc., Powell, OH.	8230
8232-X	Eurotainer, S.A., Paris, France.	8232
8426-X	Ancon Environmental Services, Wilmington, CA.	8426
8451-X	Teledyne McCormick Selph, Hollister, CA.	8451
8472-X	The Ohmart Corporation, Cincinnati, OH.	8472
8518-X	Central Pumping Company, Inc., La Habra, CA.	8518
8518-X	Ancon Environmental Services, Inc., Wilmington, CA.	8518
8518-X	Ecology Control Industries, Ventura, CA.	8518
8518-X	Lomita Gasoline Company, Long Beach, CA.	8518
8518-X	Hayter Trucking, Inc., Taft, CA.	8518
8518-X	Denver Truck Sales, Commerce City, CO.	8518
8554-X	Green Mountain Explosives, Inc., Auburn, NH.	8554
8561-X	HTL—Division of Pacific Scientific Company, Duarte, CA.	8561
8627-X	Ancor Services, Inc., Kilgore, TX.	8627
8748-X	Reuter-Stokes, Inc., Twinsburg, OH.	8748
8815-X	Nelson Brothers, Inc., Parrish, AL.	8815
8867-X	3M Transportation Company, St. Paul, MN.	8867
8877-X	PCR, Incorporated, Gainesville, FL (See footnote 1).	8877
8898-X	Petrolane Gas Service, Kent, WA.	8898
8901-X	Great Lakes Chemical Corporation, El Dorado, AR.	8901
8904-X	Keith Huber, Inc., Gulfport, MS.	8904
8910-X	Canbar, Inc., Waterloo, Ontario, Canada.	8910
8923-X	Union Carbide Chemicals & Plastics Company Inc., Danbury, CT.	8923
8923-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	8923
8927-X	HTL—Division of Pacific Scientific Company, Duarte, CA.	8927
8939-X	Hollice Clark Truck Fabrication, Inc., Odessa, TX.	8939
8988-X	Jet Research Center, Inc., Alvarado, TX.	8988
9023-X	Eurotainer, S.A., Paris, France.	9023
9054-X	Florida Drum Company, Inc., Pine Bluff, AR.	9054
9197-X	Grief Bros. Corporation, Springfield, NJ.	9197
9280-X	Union Carbide Chemicals & Plastics Company, Inc., Charleston, WV.	9280
9302-X	Cal-West Aviation, Concord, CA.	9302
9317-X	Dow Chemical Company, Freeport, TX.	9317
9329-X	Western Atlas International, Inc., Houston, TX.	9329
9354-X	Companhia Nitro Quimica Brasileira, Sao Paulo, Sp Brazil.	9354
9401-X	Arbel-Fauvet-Rail, Paris, France (See footnote 2).	9401
9548-X	Ethyl Corporation, Baton Rouge, LA.	9548
9623-X	Woodard Explosives, Inc., Albuquerque, NM.	9623
9644-X	Atlas Powder Company, Dallas, TX.	9644
9652-X	Western Atlas International, Inc., Houston, TX.	9652
9659-X	Compositek Corporation, Brea, CA.	9659
9690-X	Snyder Industries, Inc., Lincoln, NE.	9690
9694-X	Midland Manufacturing Corp., Skokie, IL (See footnote 3).	9694
9704-X	Western Atlas International, Inc., Houston, TX.	9704
9723-X	Triumvirate Environmental, Inc., Quincy, MA.	9723
9873-X	Hercules, Inc., Wilmington, DE.	9873
9873-X	Aqualon Company, Wilmington, DE.	9873
9940-X	G.E. Reuter-Stokes, Inc., Twinsburg, OH.	9940
9946-X	Linde Gases of Florida, Inc., Tampa, FL.	9946
9971-X	Fisher Scientific Company, Fair Lawn, NJ.	9971
9971-X	J.T. Baker, Inc., Phillipsburg, NJ.	9971
9981-X	Garrison Industries, Inc., El Dorado, AR.	9981
9992-X	Atochem North America, Inc., Philadelphia, PA.	9992
9994-X	Hoover Group, Inc., Beatrice, NE.	9994
10003-X	Hoover Group, Inc., Beatrice, NE.	10003
10032-X	MCM, Management Control & Maintenance, S.A., Geneva, Switzerland.	10032
10032-X	Atochem, Paris, France.....	10032
10032-X	Eurotainer, S.A., Paris, France.	10032
10069-X	Martin Electronics, Inc., Perry, FL.	10069
10196-X	Penox Technologies Inc., Pittston, PA (See footnote 4).	10196
10335-X	U.S. Department of Defense, Falls Church, VA (See footnote 5).	10335
10355-X	Chemtech Industries, Inc., East St. Louis, IL (See footnote 6).	10335
10376-X	Minnesota Commercial Railway Company, Chicago, IL (See footnote 7).	10376

(1) To authorize shipment of certain flammable liquid, corrosive n.o.s. and corrosive liquids, n.o.s. in DOT specification 57 metal portable tanks.

(2) To authorize shipment of various flammable and nonflammable gases in non-DOT specification IMO type 5 portable tanks containing two surge buffles.

(3) To authorize use of MC 331 cargo tanks equipped with alternative safety relief valves for shipment of chlorine.

(4) To authorize shipment of liquid oxygen in insulated non-DOT specification cylinders constructed of 24 gauge steel with a baffle plate allowing 90% filling capacity not to exceed 50 psig.

(5) To authorize air, water and rail as additional modes.

(6) To authorize class 105 and class 112 tank cars lined with an ethylene chlorotrifluoroethylene for shipment of Hydrofluoric acid solutions not exceeding 70%.

(7) To reissue exemption originally issued on an emergency basis to authorize DOT Spec. 105A500W tank car tanks loaded with carbon dioxide, refrigerated liquid, to remain standing with unloading connections attached.

Application No.	Applicant	Parties to exemption
4338-P	The Goodyear Tire & Rubber Company, Beaumont, TX.	4338
4453-P	Alaska-Pacific Powder Company, Anchorage, AK.	4453
5206-P	Green Mountain Explosives, Inc., Auburn, NH.	5206
6325-P	Green Mountain Explosives, Inc., Auburn, NH.	6325
6762-P	Green Mountain Explosives, Inc., Auburn, NH.	6762
6810-P	Henderson Limited, Inc., Richardson, TX.	6810
6810-P	National Wrecking Company, Chicago, IL.	6810
6974-P	General Dynamics Convair Division, San Diego, CA.	6974
7052-P	Medtronic Nortech Division, San Diego, CA.	7052
7052-P	Artex Aircraft Supplies, Inc., Canby, OR.	7052
7052-P	Advanced Telemetry Systems, Inc., Isanti, MN.	7052
7052-P	Texas Instruments Incorporated, Dallas, TX.	7052
7607-P	PACE, Incorporated, Minneapolis, MN.	7607
7716-P	Green Mountain Explosives, Inc., Auburn, NH.	7716
8248-P	Advanced Delivery & Chemical Systems, Inc., Burnet, TX.	8248
8451-P	Goex, Inc., Moosic, PA.....	8451
8453-P	Green Mountain Explosives, Inc., Auburn, NH.	8453
8453-P	Alaska-Pacific Powder Company, Anchorage, AK.	8453
8516-P	Alaska-Pacific Powder Company, Anchorage, AK.	8516
8518-P	Mitchell-Taylor and Sons, Inc., Bakersfield, CA.	8518
8526-P	F.W. Newcomb Trucking, Muscatine, IA.	8526
8526-P	Carretta Trucking, Inc., Paramus, NJ.	8526
8526-P	Brandt Truck Line, Inc., Bloomington, IL.	8526
8554-P	Alaska-Pacific Powder Company, Anchorage, AK.	8554
8554-P	Mt State Bit Service, Inc., Morgantown, WV.	8554
8582-P	Metra Company, Chicago, IL.	8582
8723-P	Alaska-Pacific Powder Company, Anchorage, AK.	8723
8958-P	Goex International, Inc., Cleburne, TX.	8958
9281-P	Goex, Inc., Moosic, PA.....	9281
9485-P	Drexel Chemical Company, Memphis, TN.	9485

Application No.	Applicant	Parties to exemption
9507-P	Solkatronic Chemicals, Inc., Morrisville, PA.	9507
9555-P	Ethyl Corporation, Baton Rouge, LA.	9555
9623-P	Alaska-Pacific, Anchorage, AK.	9623
9723-P	U.S. Pollution Control, Inc., Oklahoma City, OK.	9723
9769-P	The Soresi Chemical Group, Inc., Silver Spring, MD.	9769
9769-P	U.S. Pollution Control, Inc., Okahoma City, OK.	9769
9841-P	Green Mountain Explosives, Inc., Auburn, NH.	9841
9874-P	The Goodyear Tire & Rubber Company, Beaumont, TX.	9874
10239-P	Reagent Chemical & Research, Inc., Port Neches, TX.	10239
10307-P	Vista Chemical Company, Baltimore, MD.	10307

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on August 15, 1990.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 90-19541 Filed 8-17-90; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: August 14, 1990.

The Department of 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 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0090.

Form Number: IRS Forms 1040SS and 1040PR.

Type of Review: Revision.

Title: U.S. Self-Employment Tax Return (1040SS); and Planilla Para La Declaracion De La Contribucion Federal Sobre El Trabajo Por Cuenta Propia-Puerto Rico.

Description: Forms 1040SS (Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands) and 1040PR (Puerto Rico) are used by self-employed individuals to figure and report self-employment tax under Internal Revenue Code (IRC) chapter 2 of Subtitle A, and provide credit to the taxpayer's social security account.

Respondents: Individuals or households, Farms, Businesses or other for-profit.

Estimated Number of Respondents/Recordkeepers: 49,766.

Estimated Burden House Per Respondent/Recordkeeper:

	1040SS	1040PR
Recordkeeping.	7 hrs., 19 mins.	6 hrs., 46 mins.
Learning about the law or the form.	25 mins.	38 mins.
Preparing the form.	2 hrs., 43 mins.	2 hrs., 30 mins.
Copying, assembling and sending the form to IRS.	49 mins	49 mins.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping burden: 533,725 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. 90-19499 Filed 8-17-90; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

[Supp. to Dept. Circ.—Public Debt Series—No. 23-90]

Treasury Bonds of 2020

Washington, August 10, 1990.

The Secretary announced on August 9, 1990, that the interest rate on the bonds designated Bonds of 2020, described in Department Circular—Public Debt Series—No. 23-90 dated August 2, 1990, will be 8-¾ percent. Interest on the bonds will be payable at the rate of 8-¾ percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 90-19544 Filed 8-17-90; 8:45 am]

BILLING CODE 4810-40-M

[Supp. to Dept. Circ.—Public Debt Series—No. 22-90]

Treasury Notes, Series C-2000

Washington, August 9, 1990.

The Secretary announced on August 8, 1990, that the interest rate on the notes designated Series C-2000, described in Department Circular—Public Debt Series—No. 20-90 dated August 2, 1990, will be 8-¾ percent. Interest on the notes will be payable at the rate of 8-¾ percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 90-19543 Filed 8-17-90; 8:45 am]

BILLING CODE 4810-40-M

[Supp. to Dept. Circ.—Public Debt Series—No. 21-90]

Treasury Notes, Series U-1993

Washington, August 8, 1990.

The Secretary announced on August 7, 1990, that the interest rate on the notes designated Series U-1993, described in Department Circular—Public Debt Series—No. 21-90 dated August 2, 1990, will be 8 percent. Interest on the notes will be payable at the rate of 8 percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 90-19542 Filed 8-17-90; 8:45 am]

BILLING CODE 4810-40-M

Office of Thrift Supervision

[LN-4/2]

Appointment of Conservator; American Savings Association of Mt. Carmel, F.A.

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for American Savings Association of Mt. Carmel, F.A., Mt. Carmel, Illinois on August 10, 1990.

Dated: August 13, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-19517 Filed 8-17-90; 8:45 am]

BILLING CODE 6720-01-M

[LN-4/1]

Replacement of Conservator With Receiver; Citizens of Texas Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Citizens of Texas Savings and Loan Association, Baytown, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on August 10, 1990.

Dated: August 13, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-19519 Filed 8-17-90; 8:45 am]

BILLING CODE 6720-01-M

[LN-4/1]

Replacement of Conservator With Receiver; The Garnett Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5 (d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for the Garnett Savings and Loan Association, Garnett, Kansas, with the Resolution Trust Corporation as sole Receiver for the Association on August 10, 1990.

Dated: August 13, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-19521 Filed 8-17-90; 8:45 am]

BILLING CODE 6720-01-M

[LN-4/1]

Permian Savings and Loan Association; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5 (d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Permian Savings and Loan Association, Kermit, Texas, Docket No. 6408, on August 10, 1990.

Dated: August 13, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-19520 Filed 8-17-90; 8:45 am]

BILLING CODE 6720-01-M

[N-4/2]

Superior Savings Bank, F.S.B.; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section (d)(2)(B) and (H) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Superior Savings Bank, F.S.B. Nacogdoches, Texas, on August 10, 1990.

Dated: August 13, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-19516 Filed 8-17-90; 8:45 am]

BILLING CODE 6720-01-M

[LN-4/1]

Appointment of Receiver; American Savings and Loan Association

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owner's Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for American Savings and Loan Association, Mt. Carmel, Illinois, on August 10, 1990.

Dated: August 13, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-19514 Filed 8-17-90; 8:45 am]

BILLING CODE 6720-01-M

Replacement of Conservator With a Receiver; Baldwin County Federal Savings Bank

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Baldwin County Federal Savings Bank, Robertsdale, Alabama ("Association"), with the Resolution Trust Corporation as sole receiver for the Associatiopn on August 10, 1990.

Dated: August 13, 1990.

By the Office of Thrift Supervision,

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-19511 Filed 8-17-90; 8:45 am]

BILLING CODE 6720-01-M

[LN-4/1]

Banc Iowa Federal Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(F) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Banc Iowa Federal Savings Bank, Cedar Rapids, Iowa, Docket No. 8680, on August 10, 1990.

Dated: August 13, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90-19512 Filed 8-17-90; 8:45 am]

BILLING CODE 6720-01-M

[LN-4/1]

Replacement of Conservator With Receiver; Colonial Federal Savings Association

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act of 1933, as amended

by section 301 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly replaced the Resolution Trust Corporation as Conservator for Colonial Federal Savings Association, Prairie Village, Kansas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on August 10, 1990.

Dated: August 13, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–19518 Filed 8–17–90; 8:45 am]

BILLING CODE 6720–01–M

[LN-4/1]

Superior Federal Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act of 1933, as amended by section 301 of the Financial Institution Reform, Recovery, and Enforcement Act of 1989, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Superior Federal Saving Bank, Nacogdoches, Texas, Docket No. 6077, on August 10, 1990.

Dated: August 13, 1990.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–19513 Filed 8–17–90; 8:45 am]

BILLING CODE 6720–01–M

[AC-43; OTS No. 3745]

Home Federal Savings and Loan Association, Rome, GA; Final Action Approval of Voluntary Supervisory Conversion Application

Notice is hereby given that the Director noted that on July 26, 1990, the Chief Counsel, Office of Thrift Supervision, acting pursuant to the authority delegated to him or his designee, approved the application of Home Federal Savings and Loan Association, Rome, Georgia, for permission to convert to the stock form of organization pursuant to a voluntary supervisory conversion, and the acquisition of all the conversion stock by State Mutual Insurance Company and Statco, Inc., Rome, Georgia.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Executive Secretary.

[FR Doc. 90–19510 Filed 8–17–90; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Veterans' Advisory Committee on Rehabilitation; Meeting

The Department of Veterans Affairs gives notice that a meeting of the Veterans' Advisory Committee on Rehabilitation, authorized by 38 U.S.C., 1521, will be held on September 11, 1990, from 9 a.m. to 4:30 p.m. and on September 12, 1990 from 9 a.m. to 12 noon in Room 1010 of the Department of Veterans Affairs Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. The purpose of the meeting will be to review the administration of veterans' rehabilitation programs and to provide recommendations to the Secretary.

The meeting will be open to the public up to the seating capacity of the conference room. Due to the limited seating capacity, it will be necessary for those wishing to attend to contact Theresa Boyd, Executive Secretary, Veterans' Advisory Committee on Rehabilitation at (202) 233–6493 prior to August 31, 1990. Interested persons may attend, appear before, or file statements with the Committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 3:30 p.m. on September 11, 1990.

Dated: August 9, 1990.

By direction of the Secretary.

Laurence M. Christman,

Executive Assistant to the Deputy Assistant Secretary for Program Coordination and Evaluation.

[FR Doc. 90–19480 Filed 8–17–90; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 161
Monday, August 20, 1990

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

Amendment to Sunshine Act Meeting

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on August 14, 1990 (55 FR 33214) of the special meeting of the Farm Credit Administration Board (Board) scheduled for August 15, 1990. This notice is to amend the agenda for that meeting to add an item to the open session.

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 the meeting of the Board were open to the public (limited space available), and parts of the meeting were closed to the public. The agenda for Wednesday, August 15, 1990, is amended to include the following item in the open session:

Open Session

- Extension of Comment Period Regarding Proposed Association Termination Regulations.

August 15, 1990.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 90–19623 Filed 8–16–90; 12:36 pm]

BILLING CODE 6705–01–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the September 4, 1990 regular meeting of the Farm Credit Administration Board (Board) will not be held and that a special meeting of the Board is scheduled for Monday, September 10, 1990, starting at 10:00 a.m. An agenda for this meeting will be published at a later date.

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.

Dated: August 10, 1990.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 90–19696 Filed 8–16–90; 1:14 pm]

BILLING CODE 6705–01–M

Corrections

Federal Register
Vol. 55, No. 161
Monday, August 20, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3815-7]

Agency Information Collection Activities Under OMB Review

Correction

In notice document 90-17783 appearing on page 31105 in the issue of Tuesday, July 31, 1990, make the following corrections:

1. On page 31105, in the second column, under "**SUPPLEMENTARY INFORMATION,**" under *Abstract*, in the first paragraph, in the fourth line, "policy" should read "publicly".

2. On the same page, in the same column, under *Abstract*, in the second paragraph, in the first line, add "700 municipal wastewater treatment experts. In addition to locating" after "to" and in the third line remove "local".

3. On the same page, in the same column, in the last line, "On" should read "One".

BILLING CODE 1505-01-D

FEDERAL ELECTION COMMISSION

11 CFR Part 104

[Notice 1990-6]

Methods of Allocation Between Federal and Non-Federal Accounts; Payments; Reporting

Correction

In rule document 90-14481 beginning on page 26058 in the issue of Tuesday, June 26, 1990, make the following corrections:

§ 104.10 [Corrected]

1. On page 26068, in the third column, in § 104.10(b)(1)(i), in the ninth line, "106.6(C)" should read "106.6(c)".

2. On the same page, in the same column, in § 104.10(b)(1)(ii)(B), in the first line, the period should be a comma.

3. On page 26069, in the second column, in § 104.10(b)(5), in the third line "disbursement" should read "disbursements".

BILLING CODE 1505-01-D

FEDERAL ELECTION COMMISSION

11 CFR Part 116

[Notice 1990-10]

Debts Owed by Candidates and Political Committees

Correction

In rule document 90-14919 beginning on page 26378 in the issue of Wednesday, June 27, 1990, make the following correction:

§ 116.1 [Corrected]

On page 26386, in the third column, in § 116.1(c), in the seventh line, "these" should read "those".

BILLING CODE 1505-01-D

FEDERAL ELECTION COMMISSION

11 CFR Parts 9033 and 9035

[Notice 1990-9]

Presidential Primary and General Election Candidates; Techinical Requirements for Computerized Magnetic Media

Correction

In rule document 90-14920 beginning on page 26392 in the issue of Wednesday, June 27, 1990, make the following corrections:

1. On page 26396, in the second column, "**PART 9003**" should read "**PART 9033**".

§9033.12 [Corrected]

2. On the same page, in the same column, in § 9033.12(a)(3), in the third line "cost" should read "costs".

§ 9035.1 [Corrected]

3. On the same page, in the third column, in § 9035.1(c)(1), in the 18th line, remove "in".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Certain Drug Combinations Involving Melengestrol Acetate, Monesin, Lasalocid, and Tylosin

Correction

In rule document 90-18190 beginning on page 31827 in the issue of Monday, August 6, 1990, make the following correction:

§ 558.342 [Corrected]

On page 31828, in the second column, in § 558.342(c)(4)(ii), in the third line, after "pounds" add "per head".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-015-00-4212-13: GPO-277]

Realty Action Exchange of Public and Private Lands in Lake and Harney Counties, OR 45458

Correction

In notice document 90-15110 beginning on page 26789 in the issue of Friday, June 29, 1990, make the following corrections:

1. On page 26789, in the second column, in the second set of land descriptions, in the sixth line, ": 31" should be replaced by a period.

2. On the same page, in the same column and set of land descriptions, in the 14th line, "W¼,SW½SE¼" should read "SW¼, W½SE¼".

3. On the same page, in the same column and set of land descriptions, in the 17th line, "SW¼NE¼" should read "SE¼NE¼".

4. On the same page, in the third column, immediately after the land description, insert the following:

T.33S., R.24E., W.M., Oregon Section 5: Lots 1 and 2

BILLING CODE 1505-01-D

Reader Aids

Federal Register

Vol. 55, No. 161

Monday, August 20, 1990

INFORMATION AND ASSISTANCE

FEDERAL REGISTER PAGES AND DATES, AUGUST

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Last List August 15, 1990

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 4872/Pub. L. 101-363

National Advisory Council on the Public Service Act of 1990. (Aug. 14, 1990; 104 Stat. 424; 4 pages) Price: $1.00

H.R. 76/Pub. L. 101-364

To amend the Wild and Scenic Rivers Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the wild and scenic rivers system (Aug. 15, 1990; 104 Stat. 428; 1 page) Price: $1.00

H.R. 1159/Pub. L. 101-365

Juan Bautista de Anza National Historic Trail Act. (Aug. 15, 1990; 104 Stat. 429; 1 page) Price: $1.00

H.R. 1199/Pub. L. 101-366

Department of Veterans Affairs Nurse Pay Act of 1990. (Aug. 15, 1990; 104 Stat. 430; 15 pages) Price: $1.00

H.R. 4035/Pub. L. 101-367

To designate the Federal building located at 777 Sonoma Avenue in Santa Rosa, California, as the "John F. Shea Federal Building". (Aug. 15, 1990; 104 Stat. 445; 1 page) Price: $1.00

H.R. 4273/Pub. L. 101-368

Tuberculosis Prevention Amendments of 1990. (Aug. 15, 1990; 104 Stat. 446; 2 pages) Price: $1.00

H.R. 4314/Pub. L. 101-369

To implement the Inter-American Convention on International Commercial Arbitration. (Aug. 15, 1990; 104 Stat. 448; 3 pages) Price: $1.00

H.R. 5131/Pub. L. 101-370

To amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program, and for other purposes. (Aug. 15, 1990; 104 Stat. 451; 2 pages) Price: $1.00

H.J. Res. 515/Pub. L. 101-371

Designating the week beginning September 16, 1990, as "National Give Kids a Fighting Chance Week". (Aug. 15, 1990; 104 Stat. 453; 1 page) Price: $1.00

H.J. Res. 554/Pub. L. 101-372

Designating January 6, 1991 through January 12, 1991 as "National Law Enforcement Training Week". (Aug. 15, 1990; 104 Stat. 454; 1 page) Price: $1.00

H.J. Res. 627/Pub. L. 101-373

Designating Labor Day weekend, September 1 through September 3, 1990, as "National Drive for Life Weekend". (Aug. 15, 1990; 104 Stat. 455; 1 page) Price: $1.00

S. 2461/Pub. L. 101-374

Drug Abuse Treatment Waiting Period Reduction Amendments of 1990. (Aug. 15, 1990; 104 Stat. 456; 4 pages) Price: $1.00

S.J. Res. 248/Pub. L. 101-375

To designate the month of September 1990 as "International Visitors' Month". (Aug. 15, 1990; 104 Stat. 460; 1 page) Price: $1.00

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$11.00	Jan. 1, 1990
3 (1989 Compilation and Parts 100 and 101)	11.00	[1] Jan. 1, 1990
4	16.00	Jan. 1, 1990
5 Parts:		
1-699	15.00	Jan. 1, 1990
700-1199	13.00	Jan. 1, 1990
1200-End, 6 (6 Reserved)	17.00	Jan. 1, 1990
7 Parts:		
0-26	15.00	Jan. 1, 1990
27-45	12.00	Jan. 1, 1990
46-51	17.00	Jan. 1, 1990
52	24.00	Jan. 1, 1990
53-209	19.00	Jan. 1, 1990
210-299	25.00	Jan. 1, 1990
300-399	12.00	Jan. 1, 1990
400-699	20.00	Jan. 1, 1990
700-899	22.00	Jan. 1, 1990
900-999	29.00	Jan. 1, 1990
1000-1059	16.00	Jan. 1, 1990
1060-1119	13.00	Jan. 1, 1990
1120-1199	10.00	Jan. 1, 1990
1200-1499	18.00	Jan. 1, 1990
1500-1899	11.00	Jan. 1, 1990
1900-1939	11.00	Jan. 1, 1990
1940-1949	21.00	Jan. 1, 1990
1950-1999	24.00	Jan. 1, 1990
2000-End	9.50	Jan. 1, 1990
8	14.00	Jan. 1, 1990
9 Parts:		
1-199	20.00	Jan. 1, 1990
200-End	18.00	Jan. 1, 1990
10 Parts:		
0-50	21.00	Jan. 1, 1990
51-199	17.00	Jan. 1, 1990
200-399	13.00	[2] Jan. 1, 1987
400-499	21.00	Jan. 1, 1990
500-End	26.00	Jan. 1, 1990
11	11.00	Jan. 1, 1990
12 Parts:		
1-199	12.00	Jan. 1, 1990
200-219	12.00	Jan. 1, 1990
220-299	21.00	Jan. 1, 1990
300-499	19.00	Jan. 1, 1990
500-599	17.00	Jan. 1, 1990
600-End	17.00	Jan. 1, 1990
13	25.00	Jan. 1, 1990
14 Parts:		
1-59	25.00	Jan. 1, 1990
60-139	24.00	Jan. 1, 1990
140-199	10.00	Jan. 1, 1990
200-1199	21.00	Jan. 1, 1990
1200-End	13.00	Jan. 1, 1990
15 Parts:		
0-299	11.00	Jan. 1, 1990
300-799	22.00	Jan. 1, 1990
800-End	15.00	Jan. 1, 1990
16 Parts:		
0-149	6.00	Jan. 1, 1990
150-999	14.00	Jan. 1, 1990
1000-End	20.00	Jan. 1, 1990
17 Parts:		
1-199	15.00	Apr. 1, 1990
200-239	16.00	Apr. 1, 1990
240-End	23.00	Apr. 1, 1990
18 Parts:		
1-149	16.00	Apr. 1, 1990
150-279	16.00	Apr. 1, 1990
280-399	14.00	Apr. 1, 1990
400-End	9.50	Apr. 1, 1990
19 Parts:		
1-199	28.00	Apr. 1, 1990
200-End	9.50	Apr. 1, 1990
20 Parts:		
1-399	14.00	Apr. 1, 1990
400-499	25.00	Apr. 1, 1990
500-End	28.00	Apr. 1, 1990
21 Parts:		
1-99	13.00	Apr. 1, 1990
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170-199	17.00	Apr. 1, 1990
200-299	5.50	Apr. 1, 1990
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500-599	21.00	Apr. 1, 1990
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800-1299	18.00	Apr. 1, 1990
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22 Parts:		
1-299	24.00	Apr. 1, 1990
300-End	18.00	Apr. 1, 1990
23	17.00	Apr. 1, 1990
24 Parts:		
0-199	20.00	Apr. 1, 1990
200-499	30.00	Apr. 1, 1990
500-699	13.00	Apr. 1, 1990
700-1699	24.00	Apr. 1, 1990
1700-End	13.00	Apr. 1, 1990
25	25.00	Apr. 1, 1990
26 Parts:		
§§ 1.0-1-1.60	15.00	Apr. 1, 1990
§§ 1.61-1.169	28.00	Apr. 1, 1990
§§ 1.170-1.300	18.00	Apr. 1, 1990
§§ 1.301-1.400	17.00	Apr. 1, 1990
§§ 1.401-1.500	29.00	Apr. 1, 1990
§§ 1.501-1.640	16.00	[3] Apr. 1, 1989
§§ 1.641-1.850	19.00	Apr. 1, 1990
§§ 1.851-1.907	20.00	Apr. 1, 1990
§§ 1.908-1.1000	22.00	Apr. 1, 1990
§§ 1.1001-1.1400	18.00	Apr. 1,1990
§§ 1.1401-End	24.00	Apr. 1, 1990
2-29	21.00	Apr. 1, 1990
30-39	15.00	Apr. 1, 1990
40-49	13.00	[3] Apr. 1, 1989
50-299	16.00	[3] Apr. 1, 1989
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27 Parts:		
1-199	24.00	Apr. 1, 1990
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28	27.00	July 1, 1989

Title	Price	Revision Date
29 Parts:		
0–99	17.00	July 1, 1989
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1900–1910 (§§ 1901.1 to 1910.441)	24.00	July 1, 1989
1910 (§§ 1910.1000 to end)	13.00	July 1, 1989
1911–1925	9.00	[4] July 1, 1989
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*700–799	17.00	July 1, 1990
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33 Parts:		
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34 Parts:		
1–299	22.00	Nov. 1, 1989
*300–399	14.00	July 1, 1990
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36 Parts:		
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40 Parts:		
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790–End	21.00	July 1, 1989
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46 Parts:		
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70–89	7.50	Oct. 1, 1989
90–139	12.00	Oct. 1, 1989
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1 (Parts 1–51)	29.00	Oct. 1, 1989
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Title	Price	Revision Date
Individual copies	2.00	1990

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

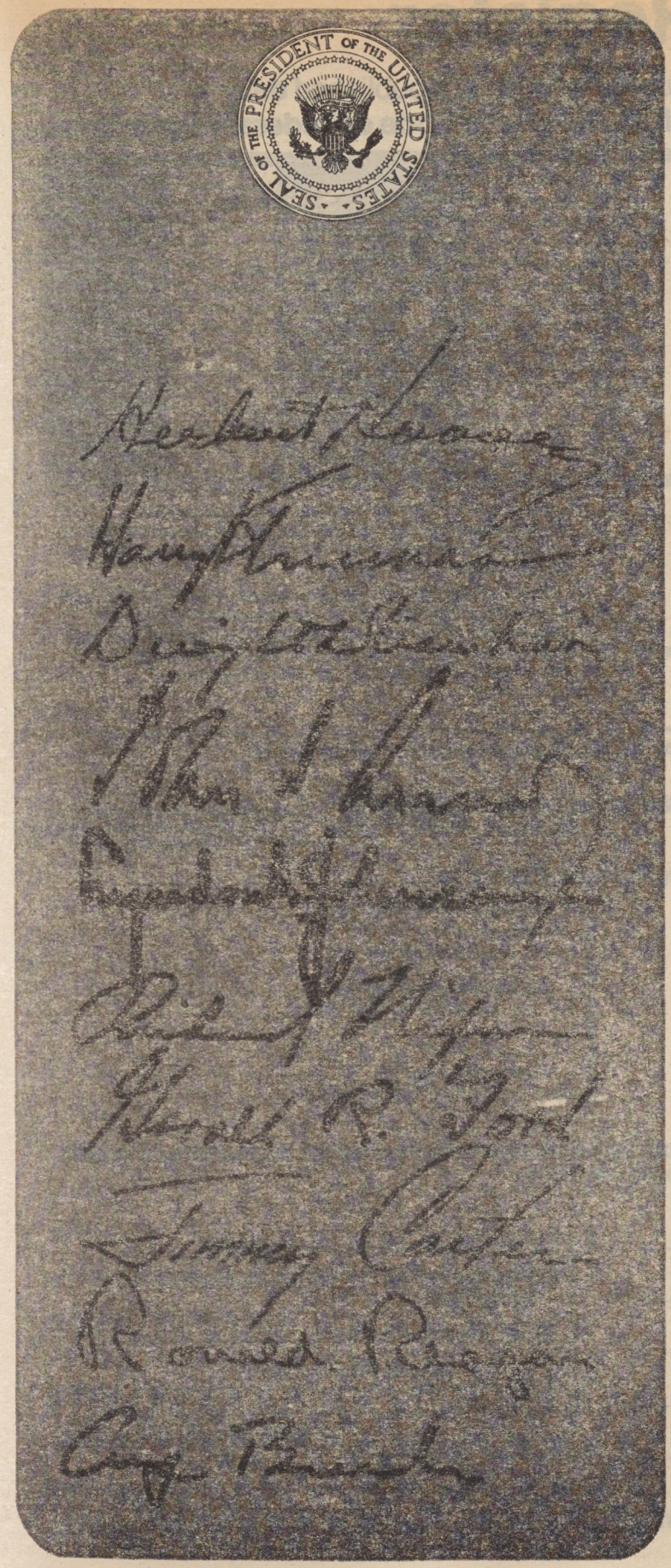
[2] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1989. The CFR volume issued January 1, 1987, should be retained.

[3] No amendments to this volume were promulgated during the period Apr. 1, 1989 to Mar. 30, 1990. The CFR volume issued April 1, 1989, should be retained.

[4] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1990. The CFR volume issued July 1, 1989, should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.



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(Rev. 5–16–90)

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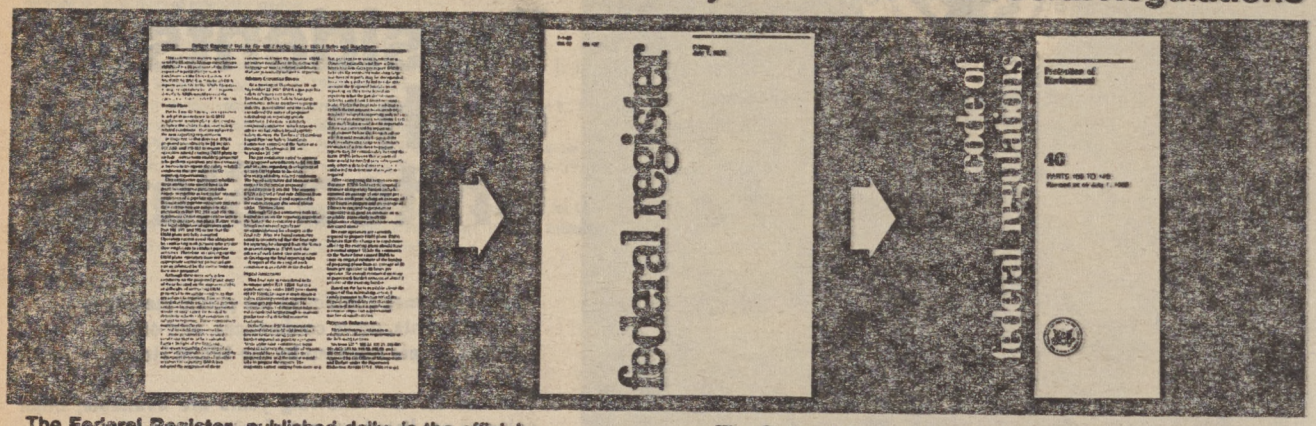

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