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FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R-0749]

Regulation D—Reserve Requirement of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending its Regulation D to reduce the reserves required on net transaction account balances over $42.2 million from the current level of 12 percent to 10 percent, based on a determination that the current level of reserves required on these liabilities is in excess of the level necessary for the conduct of monetary policy, and that a reduction in the level of required reserves will provide an impetus for bank lending and overall economic activity by freeing funds now held as reserves and facilitating depository institutions' access to the capital markets.

EFFECTIVE DATE: April 2, 1992. For depository institutions that report deposits weekly, this reduction will become operative for the reserve maintenance period beginning April 2, 1992. For depository institutions reporting quarterly, the reduction will be operative for the reserve maintenance period starting April 16, 1992.

FOR FURTHER INFORMATION CONTACT: Patrick McDivitt, Attorney (202/452–3818), or Lawranne Stewart, Attorney (202/452–3513), Legal Division; or Joshua Feinman, Economist (202/452–2841), Division of Monetary Affairs. For the hearing impaired *only*, Telecommunications Device for the Deaf ("TDD"), Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION: Section 19(b)(2) of the Federal Reserve Act, as amended by title I of the Monetary Control Act of 1980 (Pub. L. 96–221 (March 31, 1980)), provides:

(A) Each depository institution shall maintain reserves against its transaction accounts as the Board may prescribe by regulation solely for the purpose of implementing monetary policy—

(i) In the ratio of 3 per centum for that portion of its total transaction accounts of [$42,200,000 or less]; [1] and

(ii) In the ratio of 12 per centum, or in such other ratio as the Board may prescribe not greater than 14 per centum and not less than 8 per centum, for that portion of its total transaction accounts in excess of [$42,200,000].

Currently, reserves on transaction accounts balances over $42.2 million are set at 12 percent under Regulation D. 12 CFR 204.9(a)(1).

The Board is exercising its authority under section 19 to reduce the reserve required against net transaction balances in excess of $42.2 million from 12 percent to 10 percent. It is taking this action based on a determination that the current level of reserves required on these liabilities is in excess of the level necessary for the conduct of monetary policy, and that a reduction in the level of required reserves will provide an impetus for bank lending and overall economic activity by freeing funds now held as reserves and facilitating depository institutions' access to the capital markets.

The last reductions to reserve requirements were made in December 1990, at which time reserves for nonpersonal time deposits and Eurocurrency liabilities were reduced from 3 percent to zero percent. These reductions, which were phased in over two reserve maintenance periods in December and January, resulted in a brief period of increased volatility in the federal funds rate and unpredictable demand for excess reserves. Depository institutions generally experience seasonal lows in required reserve balances at the beginning of the year, and the effect of the reductions was to decrease the reserve balances required at this time of year to levels below those needed for clearing purposes. As a result, banks had difficulty adjusting to the lower reserve requirements.

Although the current reduction in reserve requirements for transaction accounts is not expected to have similar effects, the reduction in transaction account reserves will not be effective until April in order to provide depository institutions with adequate time to adjust reserve management strategies.

To assist the adjustment to lower required reserve balances, the Board also is proposing for comment two amendments to Regulation D that are intended to reduce the seasonal variations in operating balance requirements and to improve the ability of depository institutions to manage their reserve balances. These amendments would reduce lags in the application of vault cash to reserve requirements and would increase the percentage of excesses or deficiencies that may be carried over into the next reserve maintenance period.[2]

Notice and Public Participation

The provisions of the Administrative Procedure Act relating to notice and public participation (5 U.S.C. 553(b)) have not been followed in connection with the adoption of this amendment. In view of the current lack of credit availability, the Board finds good cause for determining, and so determines, that notice and public participation are unnecessary and contrary to the public interest. The amendment will have the affect of decreasing a regulatory burden by lowering the reserves that depository institutions are required to maintain against transaction account. Banks have adopted a more cautious approach to lending, born in part out of concerns about capital, that has had a restraining effect on bank credit growth and a damping influence on aggregate economic actitivy. The announcement is expected to have immediate, beneficial effects on the ability of banks to raise capital. To the extent that an announcement of reserve requirement reductions will provide banks with easier access to capital markets, it should help to improve credit availability. Putting a proposed reduction out for notice and comment is

[1] Under section 19(b)(2)(C), the amount below which reserves on net transaction account balances are payable at 3 percent, known as the low reserve tranche, is adjusted annually in relation to the growth in total transaction accounts at all depository institutions. The most recent adjustment was made on December 17, 1991 (56 FR 60054 (November 27, 1991)).

[2] See accompanying proposed rule published elsewhere in today's issue of the **Federal Register**.

likely to delay or dilute any beneficial effects.

Regulatory Flexibility Act

Because the Board finds that no notice of proposed rulemaking is required, a statement concerning the effects of the rule on small entities is also not required under the Regulatory Flexibility Act. 5 U.S.C. 604. The Board notes, however, that the amendment imposes no additional reporting or recordkeeping requirements. Reserve requirements for depository institutions with net transaction accounts in excess of $42.2 million will be reduced by the action, and no other small entities should be affected. The first $42.2 million of net transaction accounts are subject a reserve requirement of 3 per cent by statute, and the Board does not have the authority to reduce this requirement.

List of Subjects in 12 CFR Part 204

Banks, banking, Currency, Federal Reserve System, Penalties, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, and pursuant to the Board's authority under section 19 of the Federal Reserve Act, 12 U.S.C. 461 *et seq.*, the Board is amending 12 CFR part 204 to read as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS

1. The authority citation for part 204 continues to read as follows:

Authority: Sections 11(a), 11(c), 19, 25, 25(a) of the Federal Reserve Act (12 U.S.C. 248(a), 248(c), 371a, 371b, 461, 601, 611); section 7 of the International Banking Act of 1978 (12 U.S.C. 3105); and section 411 of the Garn St-Germain Depository Institutions Act of 1982 (12 U.S.C. 461).

2. Section 204.9 is amended by revising paragraph (a)(1) to read as follows:

§ 204.9 Reserve requirement ratios.

(a)(1) *Reserve percentages.* The following reserve ratios are prescribed for all depository institutions, Edge and Agreement corporations, and United States branches and agencies of foreign banks:

Category	Reserve requirement
Net transaction accounts: [1]	
$0 to $42.2 million	3 percent of amount.
Over $42.2 million	$1,266,000 plus 10 percent of amount over $42.2 million.
Nonpersonal time deposits.	0 percent.
Eurocurrency liabilities	0 percent.

[1] Dollar amounts do not reflect the adjustment to be made in the next paragraph.

* * * * *

By order of the Board of Governors of the Federal Reserve System, March 2, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-5218 Filed 3-5-92; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-CE-74-AD; Amendment 39-8189; AD 92-06-09]

Airworthiness Directives; Beech Models 1900 and 1900C Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This action supersedes Airworthiness Directive (AD) 91-12-02, which currently requires initial and repetitive inspections of the engine trusses for cracks at weld joints on certain Beech Models 1900 and 1900C airplanes, repair or replacement of engine trusses found cracked, and the installation of reinforcement doublers. New trusses have been manufactured that, if installed, would allow for the elimination of the inspection requirements of AD 91-12-02. In addition, the Federal Aviation Administration (FAA) has determined that different repetitive inspection intervals should be established for certain weld joint areas of the engine mounts. This action will retain the requirements of AD 91-12-02, but would change the repetitive inspection intervals and allow the repetitive inspections to be terminated if a certain engine truss is installed. The actions specified by this AD are intended to prevent engine truss failure, which could result in complete loss of the engine from the airplane.

DATES: Effective April 17, 1992. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 17, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; Telephone (316) 676-7111. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Don Campbell, Aerospace Engineer, Airframe Branch, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4128.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would supersede AD 91-12-02, which currently requires initial and repetitive inspections of the engine trusses for cracks at weld joints on certain Beech Models 1900 and 1900C airplanes, repair or replacement of engine trusses found cracked, and the installation of reinforcement doublers, was published in the **Federal Register** on November 15, 1991 (56 FR 57996). The action proposed retaining the requirements of AD 91-12-02, but changing the repetitive inspection intervals and allowing the repetitive inspections to be terminated if a certain engine truss is installed. The proposed actions would be done in accordance with Beech Service Bulletin No. 2255, Revision III, dated November 1991.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received in favor of the proposed rule. No comments were received on the FAA's determination of the cost to the public. After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 202 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 19 hours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $235,125. The above cost analysis is the same as AD 91-12-02, which will be superseded by this action. There will be no additional cost impact on U.S. operators by this action than that required by AD 91-12-02.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels

of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 91–12–02, **Amendment 39–7013** (56 FR 23996, May 28, 1991), and by adding the following new airworthiness directive:

92–06–09 BEECH: Amendment 39–8189; Docket No. 91–CE–74–AD. Supersedes AD 91–12–02, Amendment 39–7013.

Applicability: Model 1900 airplanes (serial numbers (S/N) UA–2 and UA–3); Model 1900C airplanes (S/N UB–1 through UB–74, S/N UC–1 through UC–156, and UD–1 through UD–6), certificated in any category.

Compliance: Required initially upon the accumulation of 1,700 hours time-in-service (TIS), or within the next 100 hours TIS after July 1, 1991 (the effective date of AD 91–12–02), whichever occurs later, unless already accomplished, and thereafter as indicated.

To detect cracks and prevent possible failure of the engine truss assembly, accomplish the following:

(a) If either engine truss, part number (P/N) 118–910025–37 or P/N 118–910025–121 is installed, or if either engine truss P/N 114–910025–1 or P/N 118–910025–1 that is equipped with reinforcement doublers at the engine firewall attachment bosses is installed, inspect the engine truss for cracks at the weld joints in accordance with the instructions in Beech Service Bulletin (SB) 2255, Revision III, dated November 1991.

(1) If no cracks are found, return the airplane to service and visually reinspect the engine truss at the weld joint areas as specified in paragraph (c) of this AD in accordance with the instructions in Beech SB No. 2255, Revision III, dated November 1991.

(2) If cracks are found, prior to further flight, accomplish one of the following in accordance with the instructions in Beech SB No. 2255, Revision III, dated November 1991:

(i) Repair the cracked engine truss or replace the cracked engine truss with a serviceable truss, P/N 118–910025–37 or P/N 118–910025–121, and visually reinspect the engine trusses at the weld joint areas as specified in paragraph (c) of this AD; or

(ii) Replace the cracked engine truss with a new improved engine truss by installing Beech Kit 114–9036–1 or 114–9036–3. This action terminates the need for any repetitive inspections required by this AD.

(b) If either engine truss, P/N 114–910025–1 or P/N 118–910025–1 that is not equipped with reinforcement doublers at the engine firewall attachment bosses is installed, inspect the engine truss for cracks at the weld joints in accordance with the instructions in Beech SB No. 2255, Revision III, dated November 1991.

(1) If no cracks are found, install reinforcement doublers in accordance with the instructions in Beech SB No. 2255, Revision III, dated November 1991, and visually reinspect the engine trusses at the weld joint areas as specified in paragraph (c) of this AD in accordance with the instructions in Beech SB No. 2255, Revision III, dated November 1991.

(2) If cracks are found, prior to further flight, accomplish one of the following in accordance with the instructions in Beech SB No. 2255, Revision III, dated November 1991:

(i) Repair the cracked engine truss, install reinforcement doublers, and visually reinspect the engine trusses at the weld joint areas as specified in paragraph (c) of this AD;

(ii) Replace the cracked engine truss with a serviceable truss, P/N 118–910025–37 or P/N 118–910025–121, and visually reinspect the engine trusses at the weld joint areas as specified in paragraph (c) of this AD; or

(iii) Replace the cracked engine truss with a new improved engine truss by installing Beech Kit 114–9036–1 or 114–9036–3. This action terminates the need for any repetitive inspections required by this AD.

(c) Accomplish the repetitive inspections required by paragraph (a)(1), (a)(2)(i), (b)(1), (b)(2)(i), or (b)(2)(ii) of this AD at the intervals below at the areas specified in Figure 1: Engine Truss Inspection Areas of Beech SB No. 2255, Revision III, dated November 1991:

Inspection area	Inspection Interval—hours (TIS)
A	300
B	600
C	3,000

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

(f) The inspections, replacements and installations required by this AD shall be done in accordance with Beech Service Bulletin No. 2255, Revision III, dated November 1991. This Incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CRR part 51. Copies may be obtained from Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

(g) This amendment (39–8189) supersedes AD 91–12–02, Amendment 39–7013.

(h) This amendment (39–8189) becomes effective on

Issued in Kansas City, Missouri, on February 25, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–4978 Filed 3–5–92; 8:45 am]

BILLING CODE 4910–13–M

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–CE–66–AD; Amendment 39–8188; AD 92–06–08]

Airworthiness Directives; Gulfstream American Model GA–7 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Gulfstream American Model GA–7 airplanes. This action requires an inspection of the elevator hinge for cracks, replacement of

the elevator if cracks extend into certain areas, and the installation of Service Kit No. 12. There have been several field reports and service difficulty reports of cracks in the elevator spar center hinge area of the affected airplanes. The actions specified by this AD are intended to prevent elevator binding and loss of pitch control, which could result in loss of control of the airplane .

DATES: Effective April 17, 1992. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 17, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from the American General Aircraft Corporation, Route 1, AB 306, P.O. Box 5757, Greenville, Mississippi 38703. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. David Cundy, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–2910; Facsimile (404) 991–3606.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain Gulfstream American Model GA–7 airplanes was published in the **Federal Register** on November 19, 1991 (56 FR 58328). The action proposed an initial inspection of the elevator hinge for cracks; replacement of the elevator if cracks are found that extend inboard of stabilizer station 41.0, outboard of stabilizer station 45.0, or into the spar caps; and the installation of Service Kit No. 12. The proposed actions would be accomplished in accordance with the modification instructions that are contained in the instructions for GA–7/Cougar Aircraft Service Kit No. 12, referenced by American General Service Bulletin ME–1A, dated February 21, 1991.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public. After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 115 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 16 hours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $200 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $124,200.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

92–06–08 Gulfstream American: Amendment 39–8188; Docket No. 91–CE–66–AD.

Applicability: Model GA–7 airplanes (serial numbers GA7–0001 through GA7–0115), certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent elevator binding and loss of pitch control, which could result in loss of control of the airplane, accomplish the following:

(a) Dye penetrant inspect the elevator spar between stabilizer station 41.0 and 45.0 for cracks by accomplishing paragraphs A–1, A–2, A–3, B–1, B–2 and B–3 of the Modification Instructions in the instructions for GA–7/Cougar Aircraft Service Kit No. 12, referenced by American General Service Bulletin ME–1A, dated February 21, 1991.

(1) If cracks are found that extend inboard from station 41.0, outboard of station 45.0, or into the spar caps, prior to further flight, replace the elevator and accomplish the following:

(i) Install Service Kit No. 12 by accomplishing paragraphs B–5 through B–20 of the Modification Instructions in the instructions for GA–7/Cougar Aircraft Service Kit No. 12, referenced by American General Service Bulletin ME–1A, dated February 21, 1991.

(ii) Balance the new elevator in accordance with Gulfstream American Model GA–7 Maintenance Manual, Chapter 27–1–1.

(iii) Install the new elevator in accordance with Gulfstream American Model GA–7 Maintenance Manual, Chapter 27–3–1.

(2) If cracks are found that do not extend inboard from station 41.0, outboard of station 45.0, or into the spar caps, prior to further flight, accomplish the following:

(i) Stop drill any cracks found.

(ii) Install Service Kit No. 12 by accomplishing paragraphs B–5 through B–20 of the Modification Instructions in the instructions for GA–7/Cougar Aircraft Service Kit No. 12, referenced by American General Service Bulletin ME–1A, dated February 21, 1991.

(iii) Balance the elevator in accordance with Gulfstream American Model GA–7 Maintenance Manual, Chapter 27–1–1.

(iv) Reinstall the elevator in accordance with Gulfstream American Model GA–7 Maintenance Manual, Chapter 27–3–1.

(3) If no cracks are found, prior to further flight accomplish the following:

(i) Install Service Kit No. 12 by accomplishing paragraphs B–5 through B–20 of the Modification Instructions in the instructions for GA–7/Cougar Aircraft Service Kit No. 12, referenced by American General Service Bulletin ME–1A, dated February 21, 1991.

(ii) Balance the elevator in accordance with Gulfstream American Model GA–7 Maintenance Manual, Chapter 27–1–1.

(iii) Reinstall the elevator in accordance with Gulfstream American Model GA–7 Maintenance Manual, Chapter 27–3–1.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft

Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

(d) The inspection and installation required by this AD shall be done in accordance with the instructions contained in GA-7/Cougar Aircraft Service Kit No. 12, referenced by American General Service Bulletin ME-1A, dated February 21, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American General Aircraft Corporation, Route 1, AB 306, P.O. Box 5757, Greenville, Mississippi 38703. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 1100 L Street, NW.; room 8401, Washington, DC.

(e) This amendment (39-8188) becomes effective on April 17, 1992.

Issued in Kansas City, Missouri, on February 25, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate Aircraft Certification Service.

[FR Doc. 92-4980 Filed 3-5-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-CE-81-AD; Amendment 39-8190; AD 92-06-10]

Airworthiness Directives; SOCATA Groupe AEROSPATIALE Morane Saulnier MS890 Series and Rallye 235 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to SOCATA Groupe AEROSPATIALE Morane Saulnier MS890 series and Rallye 235 series airplanes. This action requires repetitive dye penetrant inspections of the nose wheel axle for cracks, replacement of the nose wheel axle if found cracked, and replacement of the nose wheel axle attaching screws. Reports received by the Federal Aviation Administration (FAA) show that cracks could form in the nose wheel axle and the nose wheel axle attaching screws could fail over time. The actions specified by this AD are intended to prevent loss of control of the airplane caused by nose gear wheel axle fatigue failure.

DATES: Effective April 17, 1992. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 17, 1992.

ADDRESSES: Service information that is applicable to this AD may be obtained from SOCATA Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France; Telephone 62.41.74.26; Facsimile 62.41.74.32; or the Product Support Manager, U.S AEROSPATIALE, 2701 Forum Drive, Grand Prairie, Texas 75053; Telephone (214) 641-3614; Facsimile (214) 641-3527. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond A. Stoer, Program Officer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30; Facsimile (322) 230.68.99; or Mr. Mike Dahl, Project Officer, Small Airplane Directorate, Airplane Certification Service, FAA, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932; Facsimile (816) 426-2169.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that is applicable to certain SOCATA Groupe AEROSPATIALE Morane Saulnier MS890 series and Rallye 235 series airplanes was published in the **Federal Register** on November 21, 1991 (56 FR 58655). The action proposed repetitive dye penetrant inspections of the nose wheel axle for cracks, replacement of the nose wheel axle if found cracked, and replacement of the nose wheel axle attaching screws. The actions would be accomplished in accordance with the instructions in SOCATA Groupe AEROSPATIALE Service Bulletin No. 150, dated June 1991.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public. After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The FAA estimates that 72 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 2 hours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $16 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $9,072.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

92-06-10 Socata Groupe Aerospatiale: Amendment 39-8190; Docket No. 91-CE-81-AD.

Applicability: Morane Saulnier Models MS892A150, MS892E150, MS893A, MS893E, MS894A, and MS894E airplanes (all serial numbers); and Rallye Models 235C and 235E

airplanes (all serial numbers), certificated in any category.

Compliance: Required initially upon accumulation of 500 hours time-in-service (TIS) or within the next 50 hours TIS after the effective date of this AD, whichever occurs later, and thereafter, as indicated, unless already accomplished.

To prevent nose wheel axle fatigue failure, accomplish the following:

(a) Dye penetrant inspect the nose wheel axle assembly for cracks in accordance with the instructions in DESCRIPTION: (1) of SOCATA Groupe AEROSPATIALE Service Bulletin No. 150, dated June 1991.

(1) If cracks are found, prior to further flight, replace the nose wheel axle assembly in accordance with the applicable maintenance manual, and reinspect thereafter at intervals not to exceed 500 hours TIS.

(2) If no cracks are found, reinspect thereafter at intervals not to exceed 500 hours TIS.

(b) At every 4th repetitive inspection interval (2,000 hours TIS) mandated in paragraphs (a)(1) and (a)(2) of this AD, replace the nose wheel axle attaching screws instead of reinstalling the existing screws as specified in the instructions of DESCRIPTION: (2) of SOCATA Groupe AEROSPATIALE SB No. 150, dated June 1991.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety, may be approved by the Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

(e) The inspections and replacements required by this AD shall be done in accordance with SOCATA Groupe AEROSPATIALE Service Bulletin No. 150, dated June 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from SOCATA Groupe AEROSPATIALE, Socata Product Support, Aeroport Tarbes-Ossun-Lourdes, B P 930, 65009 Tarbes Cedex, France. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 1100 L Street, NW.; room 8401, Washington, DC.

(f) This amendment (39–8190) becomes effective on April 17, 1992.

Issued in Kansas City, Missouri, on February 25, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc 92–4979 Filed 3–5–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

Advisory Committees; Food Advisory Committee; Establishment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing the establishment by the Commissioner of Food and Drugs of the Food Advisory Committee in the FDA's Center for Food Safety and Applied Nutrition. A notice requesting nominations for membership on this committee will publish at a later date. This document adds to the agency's list of standing advisory committees. The authority citation for 21 CFR part 14 is also being revised to reflect changes made as a result of the transfer and redesignation of certain sections of the Public Health Service Act to the Federal Food, Drug, and Cosmetic Act, by the Safe Medical Devices Act of 1990.

DATES: This rule becomes effective March 6, 1992. Authority for the committee being established will end on December 15, 1993, unless the Commissioner of Food and Drugs formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Donna M. Combs, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463), section 903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 394) as amended by the Food and Drug Revitalization Act (Pub. L. 101–635), and 21 CFR 14.40(b), FDA is announcing the establishment by the Commissioner of Food and Drugs of the Food Advisory Committee.

The committee shall provide advice primarily to the Director, Center for Food Safety and Applied Nutrition, and as needed, to the Commissioner and other appropriate officials on emerging food safety, food science, and nutrition issues that FDA considers of primary importance in the next decade. The committee shall also provide advice and make recommendations on ways of communicating to the public the potential risks associated with these issues, and recommend approaches that may be considered in addressing the issues.

The Safe Medical Devices Act of 1990, Public Law 101–629, enacted November 28, 1990, amended subpart 3 "Electronic Product Radiation Control" of part F of title III of the Public Health Service Act, and redesignated sections 354 through 360F of that act as sections 530 through 542 of the Federal Food, Drug, and Cosmetic Act, respectively.

Because these are technical amendments to 21 CFR part 14, the Commissioner of Food and Drugs finds under 5 U.S.C. 553(b)(B) and 21 CFR 10.40 (c), (d), and (e), that notice and public procedure are unnecessary and contrary to the public interest. Therefore, the agency is revising the authority citation for 21 CFR part 14 and adding new paragraph (g) to 21 CFR 14.100 as set forth below.

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 14 is amended as follows:

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

1. The authority citation for 21 CFR part 14 is revised to read as follows:

Authority: Sec. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 21 U.S.C. 41–50, 141–149, 467f, 679, 821, 1034; secs. 2, 351, 361 of the Public Health Service Act (42 U.S.C. 201, 262, 264); secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 5 U.S.C. App. 2; 28 U.S.C. 2112.

2. Section 14.100 is amended by adding new paragraph (g) to read as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(g) *Center for Food Safety and Applied Nutrition—Food Advisory Committee.* (1) Date established: December 15, 1991.

(2) Function: The committee provides advice on emerging food safety, food science, and nutrition issues that FDA considers of primary importance in the next decade.

Dated: March 2, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–5222 Filed 3–5–92; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 173

[Docket No. 87F-0013]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Chemicals for Controlling Micro-Organisms in Cane-Sugar and Beet-Sugar Mills

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of glutaraldehyde as a chemical for controlling micro-organisms in beet-sugar mills. This action is in response to a petition filed by Union Carbide Corp.

DATES: Effective March 6, 1992; objections by April 6, 1992.

ADDRESSES: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-254-9519.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 16, 1987 (52 FR 8112), FDA announced that a food additive petition (FAP 7A3981) had been filed by Union Carbide Corp., P.O. Box 670, Bound Brook, NJ 08805, proposing that § 173.320 Chemicals for controlling micro-organisms in cane-sugar and beet-sugar mills (21 CFR 173.320) be amended to provide for the safe use of glutaraldehyde as a chemical for controlling micro-organisms in cane-sugar and beet-sugar mills.

The agency has since determined that the March 16, 1987, filing notice incorrectly described the petitioner's request because the petition specifically requested approval for the use of glutaraldehyde as an antimicrobial agent to control micro-organisms solely in beet-sugar mills. Therefore, the agency is amending the food additive regualtion in § 173.320 by adding paragraph (b)(6) to provide for the safe use of glutaraldehyde as a chemical for controlling micro-organisms in beet-sugar mills.

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

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

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

Any person who will be adversely affected by this regulation may at any time on or before April 6, 1992 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, 21 CFR part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: Secs. 201, 402, 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348).

2. Section 173.320 is amended in paragraph (b) introductory text by adding "or (6)" after "paragraph (b)(4)" and by adding new paragraph (b)(6) to read as follows:

§ 173.320 Chemicals for controlling micro-organisms in cane-sugar and beet-sugar mills.

* * * * *

(b) * * *

(6) Single additive for beet-sugar mills:

	Parts per million
Glutaraldehyde (CAS Reg. No. 111-30-8).	Not more than 250.

* * * * *

Dated: February 26, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-5224 Filed 3-5-92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905, 965 and 968

[Docket No. R-92-1535; FR-2984-02]

RIN: 2577-AA92

Termination of Consolidated Supply Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This final rule terminates HUD's Consolidated Supply Program (CSP), currently set out at 24 CFR part 965, subpart G, and 24 CFR 905.175(f), and makes conforming amendments to 905.640(c) and 968.240(c), which reference the CSP. Under the CSP, HUD furnishes technical assistance to public housing agencies and Indian housing authorities in purchasing certain supplies, material, equipment, and

services necessary for the development, operation and maintenance of low-income housing. The decision to terminate the CSP was made after a thorough evaluation of the program, and careful consideration of the public comments received on a June 10, 1991 proposed rule. These comments are discussed in the Supplementary Information section of this document.

EFFECTIVE DATE: April 6, 1992. Contract extensions for all CSP contracts except Roofing Shingles, and Floor Tile and Sheet Vinyl expired on February 28, 1992. Contracts for the latter two products will expire on March 31, 1992. PHAs may not issue purchase orders for contracts which have expired. For the two contracts which have not expired, PHAs may issue Purchase Orders up to the contract expiration date. Once any contract has expired, contractors and PHAs may complete work/delivery of items reflected on Purchase Orders issued before the expiration of the last contract extension; no new Purchase Orders may be issued.

FOR FURTHER INFORMATION CONTACT: William C. Thorson, Director, Maintenance and Supply Division, Office of Construction, Rehabilitation and Maintenance, room 4124, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–4703. Hearing- or speech-impaired individuals may call the TDD number for the Office of Public and Indian Housing, (202) 708–0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

The Consolidated Supply Program (CSP) was established to assist public housing agencies (PHAs), and Indian housing authorities (IHAs) (PHAs and IHAs are collectively referred to as PHAs), to assure the low income character of public housing, as required under sections 6(a) and 9(a) of the United States Housing Act of 1937, by providing technical assistance in the procurement process. (The CSP regulations, which are removed by this rule, are codified at 24 CFR 965, subpart G, and 24 CFR 905.175(f). Additionally, conforming amendments are made to 24 CFR 905.640(c) and 24 CFR 968.240(c), which reference the CSP.)

Under the CSP, the Department enters into competitive open-end contracts with suppliers of products (supplies, material, equipment and services) commonly used by PHAs in the development, operation, and maintenance of low-income housing. The Department prepares the technical specifications, and undertakes the solicitation, procurement and contracting functions. Contracts are awarded to all responsive and responsible bidders whose prices are at or below the average of bids received (not just the low bidder). The CSP contracts generally are of 15 months duration and are indefinite quantity contracts with no guarantee to the CSP supplier of any minimum volume of business under the contracts. A catalog identifying the product specifications, product items and price is prepared for each CSP product.

The objective of the CSP was to provide PHAs with the price benefits of competition, while reducing the administrative costs that would otherwise be incurred by each PHA in preparing individual contract specifications, and in soliciting for bids. The CSP operated on the premises that: (1) CSP contractors offer their best prices to the program—that is prices that are equal to or better than prices available to PHAs through open competition; and (2) CSP installed item specifications, including authorized options, add-ons, and deletions, are sufficient to satisfy the job needs of PHAs. The Department found, however, that these operating premises were inaccurate.

Audits of the CSP conducted by HUD's Office of the Inspector General (OIG) in 1981, 1984, 1988 and 1990 revealed widespread program abuse by PHAs and contractors. The audits also revealed that use of the CSP by PHAs was small ($102 million for the 1988/1989 period) compared to overall PHA procurement of more than $3 billion. The Department further studied the CSP, including seeking the assistance of an outside consultant, and determined that the structural and inherent flaws of the CSP were so serious that the corrective measures required to make the CSP cost effective would far exceed available resources and outweigh any potential program benefits.

Accordingly, in a rule published on June 10, 1991 (56 FR 26628), the Department proposed to terminate the CSP. The preamble to the proposed rule provided a detailed account of the findings of the OIG's audits, and the additional steps taken by HUD to further evaluate the benefits and problems of the CSP. These steps included an August 10, 1990 meeting with the CSP participants. Attendees at the meeting included representatives of the National Association of Housing and Redevelopment Officials (NAHRO), the Public Housing Authority Directors' Association (PHADA), various CSP contractors, auditors and others interested in the CSP.

In the June 10, 1991 rule, the Department stated that if the CSP were terminated, it would continue to offer PHAs procurement assistance, by making available to PHAs the guide specifications for many items currently available through the CSP. The Department also stated that it would seek the passage of legislation that would make the General Services Administration (GSA) schedule available to PHAs, in an effort to provide an additional source from which PHAs may procure products.

II. Discussion of Public Comments

The Department invited comment on the June 10, 1991 proposed rule. During the comment period, which expired August 9, 1991, HUD received 120 comments. The commenters included 105 PHAs. The commenters also included nine contractors; four associations representing various PHAs, PHA officials and PHA contractors; one corporation involved in product testing and certification; and one U.S. legislator.

Of the 120 commenters, three commenters supported, or expressed no opposition to termination of the CSP. These three commenters, all PHAs, stated that they could obtain better prices through competitive bidding than through the CSP. The remaining commenters were opposed to termination of the program. Of the 105 PHA commenters, almost half (50) submitted a form letter.

One of the commenters, NAHRO, advised that, together with PHADA, it conducted a survey on the CSP among public housing agencies. NAHRO stated that on June 1, 1991, it submitted a questionnaire to 3,244 PHAs, and that 583 PHAs responded to the survey. NAHRO reported that of the 583 respondents, 470 PHAs stated that they used the CSP, and 97 percent of this group stated that they saved money by using the CSP. NAHRO reported that this group stated that they spent nearly $37 million on CSP products, at an estimated savings of $9 million.

In reviewing the NAHRO survey, some PHAs perceived administrative and time savings to be major benefits of the CSP. The Department will comment further in this Rule regarding the benefits of the CSP. However, the Department also notes the following from the survey:

—While some PHAs claimed savings as a benefit, elsewhere in the survey the principal reason cited for not using the CSP was cost, followed by local

preference, poor warranties, slow/unreliable delivery and poor quality.
—The principal problem identified with the CSP is unreliable contractors, followed by inferior products, unnecessary add-ons, over-pricing, poor service.
—The items identified in the survey as being the most frequently purchased—refrigerators, floor tile, ranges, water heaters and window shades—are available from the GSA.
—19 percent of PHAs responding to the survey did not use the CSP.
—498 out of 546 (92 percent) responding to the survey said they already have procurement staff.
—292 out of 469 (66 percent) responding to the survey advised that they solicit further/additional quotes from CSP vendors.
—57 of PHAs responding to the survey were aware of program abuses, but only 23 advised that they notified HUD.
—161 out of 214 (76 percent) responding to the survey advised that there were products for which they preferred not to use the CSP.

The survey results also confirmed the following findings of the Department during its evaluation of the program: PHAs already have procurement staff and procure most of their goods and services from non-CSP sources; and there are structural flaws, abuse and higher costs in the program. Accordingly, the Department does not consider the survey results to provide a persuasive argument in favor of retaining the CSP. The Department also noted that only 18 percent of the PHAs surveyed decided to respond. This low response rate confirms the relatively limited interest and usage of the CSP.

Following careful consideration of the comments on the proposed rule and the survey results provided by NAHRO and PHADA, the Department has decided to proceed with termination of the CSP. Notwithstanding the recognizable loss of some benefit to participating PHAs, the Department's evaluation of the program continues to support that the magnitude of the problems with CSP is such that the measures required to correct these problems, to curtail future abuse, and to make the program cost effective far exceed available resources, and outweigh the benefits.

The following section presents a discussion of the specific issues raised by the commenters, and the Department's response to each issue. The comments opposing termination of the CSP generally fell into the following four areas: (1) Comments describing the benefits of the CSP; (2) comments describing the problems that will result for PHAs if the CSP is terminated; (3) comments criticizing HUD's rationale for terminating the CSP; and (4) comments offering suggestions on how PHA procurement may be improved.

1. Benefits of the CSP

The majority of the commenters appealed to HUD to continue the CSP because of the many benefits derived by PHAs through participation in the program. The benefits identified by the commenters are as follows:

Comment: The CSP provides savings in the administrative costs and time involved in procurement. A number of commenters stated that the CSP helps PHAs avoid the costly and time consuming process of bid and specification preparation.

Response. HUD acknowledges that the CSP may reduce the administrative costs and time involved in procurement for many participating PHAs. HUD will make guide specifications available to PHAs for many of the items now on the CSP. Through this effort, HUD will continue to assist PHAs in reducing the administrative costs and time involved in procurement.

HUD also acknowledges that PHAs which relied substantially on the CSP for a number of products may incur slightly increased procurement costs. The increase, however, should not be significant. Most, if not all, PHAs already have staff performing procurement functions for items that are not available through the CSP. These items (those not available through the CSP) comprise the majority of PHA procurement purchases.

In addition, as stated in the June 10, 1991 proposed rule, HUD intends to seek legislation which will enable PHAs to purchase products from the GSA schedule. While the GSA schedule does not include installed items, it includes a number of non-installed items available through the CSP, and many items that are not available through the CSP—items, which can be extremely useful to PHAs, such as office and maintenance equipment. HUD believes that use of the GSA schedule will result in much of the same savings in administrative cost and time as the CSP provides.

Many States operate programs similar to the GSA Schedule. PHAs can and should purchase goods through these programs when prices are determined to be advantageous. Further, PHAs can form consortiums to make group purchases and take advantage of discounts available when making volume purchases. Any such purchases would have to conform to HUD procurement requirements at 24 CFR 85.36.

Comment: The CSP provides better quality products. Several commenters stated that the product specifications which have been written for the CSP have continually improved, thus ensuring better and more consistent quality of products, which is not always true in an open bid process.

Response: PHAs will continue to benefit from these specifications, because HUD will continue to update, and to make available to PHAs, guide specifications for many of the CSP products.

Comment: The CSP provides savings on professional fees. Several commenters stated that the CSP provides savings on architectural and engineering fees.

Response: The guide specifications that HUD will make available to PHAs, will make it possible for PHAs to continue to save on architectural and engineering fees for both installed and non-installed items. Although PHAs will continue to require professional services for installed items, these services will be needed to a lesser degree because of the guide specifications.

Comment: The CSP reduces inventory and maintenance problems. Several commenters stated that one of the principal benefits of the CSP is standardization of products, which reduces the need for a large inventory of replacement and repair parts, and reduces the need for maintenance personnel to have knowledge of a wide range of products.

Response. The guide specifications that HUD will provide for many CSP products will assist PHAs in maintaining a standardized inventory. However, with advancing technology, new products are frequently introduced in the market. Even with the same manufacturer, models are periodically updated and changed. Thus, PHAs must expect changes in the products that they use. Product changes occur with or without the CSP. In addition, HUD regulations have relatively simple and informal procedures for purchases of services and supplies that do not cost more than $25,000 (or a lesser amont as specified by State law). These procedures facilitate, when ever possible, standardization and maintenance of reasonable inventories.

Comment: CSP contractors complete jobs more quickly. Several commenters stated that utilizing CSP contractors frequently results in shorter job completion time, because CSP contractors are familiar with the various requirements that pertain to work and

services in connection with public housing developments, including the paperwork requirements.

Response. HUD questions the contention that CSP contactors complete jobs more quickly than non-CSP contactors because the CSP contractors are familiar with the requirements pertaining to public housing. All contractors complete jobs in accordance with certain plans and specifications and within the times specified in the contracts. The requirements applicable to HUD-assisted public housing, including the paperwork requirements, should not affect a contractor's ability to deliver a product or service in accordance with a plan or specification, in a timely manner. In its audit of the CSP, the OIG found many CSP contractors performing work outside the scope of their contracts. Under this situation, PHAs incurred less paperwork, because they did not compete for the additional work, in violation of the CSP requirements.

Comment: CSP contractors perform on-site work with less disruption to residents. Several commenters stated that extensive public housing experience permits CSP contractors to perform on-site work in a manner that requires public housing residents to relocate less frequently, thereby obviating the need for relocation costs, and reducing the loss of rental revenue on units under repair.

Response. While HUD is pleased that some PHAs found CSP contractors disrupted residents infrequently, HUD sees no reason why non-CSP contractors could not perform on-site work in the same manner, and achieve the same results.

Comment: The CSP is effective in meeting minority contractor hiring goals. Several commenters stated that the CSP is one of the most effective ways for PHAs to meet their minority contractor hiring goals, and that loss of the CSP will result in a reduction in the hiring of minority contractors.

Response. HUD's evaluation of the CSP indicates that PHAs purchase the majority of their products and services through sources other than the CSP. Accordingly, PHAs already should have systems in place that encourage minority business enterprises (MBE) to participate in PHA procurement. PHAs can and should achieve MBE goals without the CSP.

Comment: CSP prices are equal to or less than competitive bid prices. A number of commenters stated that the CSP is less costly to PHAs than competitive bidding. A few of these commenters provided examples of the savings incurred by purchasing through the CSP. One commenter stated that dependent upon the economic conditions of the PHA's locale, prices obtained through competitive procurement may be significantly inflated, whereas under the CSP, prices, in many cases, remain fixed for a period of 15 months. Another commenter stated that "the bidding process would not gurantee product uniformity as is available under CSP, and could prove chaotic if PHAs are forced to procure varied products designed to different specifications."

Response. HUD disagrees that the CSP is less costly than competitive bidding. While in certain cases, CSP prices may be lower than competitive bid prices, the low volume of CSP sales supports that, for the majority of PHA purchases, CSP prices were higher than prices obtained through the competitive bid process. HUD notes that no commenters provided any supporting documentation of actual savings obtained through the CSP. Rather, each commenter estimated savings based on the commenter's asserted knowledge of the market.

HUD also disagrees with the commenters' generalization that CSP prices are or will be lower, because they are fixed for a period of 15 months or longer. One of the reasons CSP prices were generally higher than competitive bid prices, as found in the IG audit, is because CSP prices are fixed for a period of 15 months or longer and for a Region(s) where prices may vary from locality to locality. To establish a price for such an extended period, a CSP contractor must factor in anticipated price increases. A competitive bid price, however, would reflect current product cost. HUD believes that in an open economy, a competitive bidding process is the best vehicle for obtaining the most advantageous prices.

With regard to uniformity, no competitive system for procurement of goods and services can guarantee uniformity indefinitely. As discussed previously, products frequently change because of advances in technology. Uniformity was not guaranteed under the CSP. The CSP had a variety of contractors offering similar, but not identical products.

HUD further disagrees that terminating the CSP would prove chaotic. Again, HUD's study of the CSP revealed that most PHAs do not use the CSP for the majority of their purchases. For those PHAs that were more dependent on the CSP, the guide specifications that HUD intends to make available for many of CSP items, will provide much of the technical expertise that PHAs will need for procurement through the competitive bid process.

Comment: CSP provides savings on freight charges. A few commenters stated that because the CSP offers several competing available sources for products, a PHA can choose to save freight charges by selecting a source in the PHA's geographical area.

Response: One of the principal criticisms of the CSP was that the higher CSP prices resulted from high freight charges imposed. CSP prices must be valid for an entire HUD regional area. Accordingly, a CSP contractor, in establishing a price for an item, must consider the varying freight costs, e.g., prices must be high enough to cover the long distances.

Comment: CSP provides better and longer product warranties. A few commenters stated that PHAs are able to obtain better warranties (and of longer duration) for CSP products than for products obtained locally.

Response. PHAs may establish any warranty period desired in competitively bid contracts, even longer than the warranties provided under the CSP.

Comment: Installation and delivery time is reduced under the CSP. A few commenters stated that the time for installation and delivery of material ordered through the CSP is much shorter than through the competitive bid process.

Response. HUD disagrees that delivery and installation time can be reduced once a contract is executed simply because an item is available through the CSP. There is no reason why a competent non-CSP contractor could not deliver and install products in the same time frame as a CSP supplier.

2. Termination—Problems for PHAs

Comment: Termination of the CSP will increase PHA financial problems, and impact most adversely on small PHAs. Several commenters stated that PHAs are already experiencing financial difficulty, and that termination of the CSP will increase PHA administrative costs, and consequently increase PHA financial problems. Other commenters stated that the increase in costs will hurt small PHAs the most.

Response. While HUD recognizes that PHAs may incur some additional administrative expenses as a result of termination of the CSP, the additional costs should not be significant. As noted previously, procurement of items through the CSP represents a low percentage of total PHA procurement, which means that the majority of PHAs, including small PHAs, already have

staff performing non-CSP procurement. For those PHAs which were more dependent on the CSP, the guide specifications will help minimize increases in procurement costs. PHAs experiencing financial difficulties already should be exploring ways to address these difficulties. These difficulities may be the result of management and operational deficiencies that will continue to cause financial problems for PHAs, with or without the CSP.

Comment: Small PHAs have limited procurement expertise. One commenter stated that small PHAs operate with limited staff, possess no background or expertise in the specific procedures involved in the competitive bid process, and are extremely susceptible to "hard sell" and to "snake oil" sales representatives. The commenter stated: "It is our opinion that the termination of the CSP would result, in many cases, in the procurement of substandard goods and services and improper or illegal contracting methods, which in turn will result in an increased cost to the PHA, to HUD and to the taxpayer."

Response. In order to operate public housing developments, PHAs, even small PHAs, must possess management capability in all area of property management, including procurement. Procurement is a basic component of a PHA's operation. If a PHA lacks staff that has the capability to successfully handle procurement, then the PHA needs to employ additional personnel or make personnel changes. If a PHA is susceptible to fraudulent practices, the existence of the CSP will not improve the situation.

Comment: Rural PHAs make up the majority of PHAs and lack competitive market places. One commenter stated: "Rural PHAs, which make up the majority of the PHAs in the nation, lack available competitive market places for economical purchasing."

Response. PHAs purchase the majority of their items outside of the CSP, which means that there are other sources to procure products available through the CSP. HUD seriously questions the inability of rural PHAs to purchase CSP items on the local market. To the extent this may occur for some items, PHAs need to expand their marketing range beyond the immediate locality. This is not uncommon in rural communities, regardless of whether the procuring entity is a PHA or some other type of business entity.

Comment: Termination of the CSP will increase the PHA paperwork burden. One commenter complained that termination of the CSP will increase the PHA paperwork burden.

Response. PHAs are responsible for managing their business. Procurement is a typical part of this business. The act of doing any business, including procurement, will generate a paperwork burden. HUD acknowledges that the CSP has provided some relief to PHAs from the paperwork burden that is part of all procurement. Again, however, since the majority of PHA procurement is not conducted through the CSP, the paperwork burden relief provided by the CSP was not widespread among PHAs. Conversely, the additional paperwork burden that may be incurred by termination of the CSP will not be significant.

Comment: Termination of the CSP will result in greater procurement abuses. One commenter stated that there will be more abuses if PHAs are limited to a local bidding system. The commenter stated: "If there are abuses under the HUD-controlled CSP system, imagine how may more opportunities for abuse will exist under bid systems locally administered by over 3,500 public and Indian housing authorities. Major vendors have a significant business interest in maintaining their CSP contracts. * * * Major suppliers deal with PHAs at arm's length, while local procurement is done on a much closer basis. We believe dealing with major suppliers at arm's length provides minimal opportunity for abuse of the procurement system."

Response. PHA procurement is now largely administered at the local level, because most PHAs purchase the majority of their products under a competitive bid system. To the extent that a PHA lacks adequate internal control systems over its procurement transactions, opportunities for abuse exist under either system—a competitive bid process or the CSP system. The OIG audit clearly documents repeated instances where CSP contractors disregarded and violated CSP rules and regulations.

3. HUD's Rationale for Terminating the CSP

Comment: The OIG's findings are based on a small number of PHAs. Several commenters stated that the decision to terminate the CSP was unfair because the OIG's findings were based on a small percentage (one percent) of PHAs.

Response. Since 1976, the OIG has conducted four audits of the CSP. Each audit identified serious problems with the program. The most recent audit focused on four regions with significant CSP activity. PHAs were selected for study primarily based on major activity under the Comprehensive Improvement Assistance Program (CIAP). Given the limited dollars spent by PHAs, nationwide, on items available through the CSP, the PHAs audited by the OIG represent a large portion of the overall CSP activity. Accordingly, to state that the OIG audit only focused on one percent of PHAs does not provide an accurate indication of the extent of CSP activity investigated by the OIG.

Comment: The OIG only examined competitively bid purchase orders. Two commenters stated that in all the contracts examined by the IG, the PHAs had opted to use local competitive bidding instead of the CSP and saved money doing so. The commenter stated that the OIG should have included in its review cases where the PHA opted for CSP procurement, and then compared those costs to the prospective cost of a locally bid contract.

Response. If a PHA purchased a CSP item, there would be no reasonable way for the OIG to determine what the competitive cost of that item would have been at a given time in the past. It would be unreasonable to ask vendors to provide competitive bids on contracts for which awards already have been made. Therefore, the methodology proposed by the commenter is inappropriate.

Comment: HUD did not undertake a cost-benefit analysis. One commenter stated that HUD's reasons for terminating the program were flawed because HUD did not undertake a cost-benefit analysis. The commenter stated that HUD failed to take into consideration the additional costs to PHAs and to HUD that would result from termination of the CSP. The commenter stated that these additional costs include: the costs of architectural and engineering fees, bid preparation, proposal solicitation, review and decision-making by PHAs, as well as the costs of competitive bid process review, and individual contract and product quality review by HUD.

Response. In deciding whether to terminate the CSP, HUD did take into consideration the benefits provided by the program, the problems with the program, and the duties and increased administrative costs that would revert to PHAs as a result of termination of the program. HUD recognizes that the CSP may reduce certain administrative costs and time involved in PHA procurement. HUD also recognizes that CSP sales are low and have been low for some time. This data indicated that notwithstanding the reduction in administrative costs, PHAs do not realize the significant savings in product costs anticipated and intended by the

program, and therefore use the competitive bidding process, not the CSP, for the majority of their purchases. After careful evaluation of all aspects of the program, HUD determined that the high vulnerability to fraud, waste and abuse of the program outweighs the benefits provided to a limited group of PHAs and that there is no system of cost efficient modifications which would justify continuation of the program. Again, HUD expects that the costs to be incurred by some PHAs as a result of termination of the CSP will be reduced by the guide specifications that HUD will make available for certain CSP items.

Comment: The lack of widespread use of the CSP by PHAs results from inadequate information. One commenter stated that the low use of the CSP by PHAs results from the fact that the program was never presented properly to PHAs. The commenter stated:

> In (our State) very few of our small PHAs use CSP because it has never been explained to them in a way they can understand. It is much easier to continue to do business as usual than to learn new tricks. HUD sends CSP information month after month with nothing to guide PHAs, to even let them know it is something which will save them money. Many think of the CSP information as another marketing catalog, just like the ones they receive from other businesses. Often it is discarded without serious consideration. If HUD is serious about saving Federal dollars, the CSP catalog information would be better marketed, explained, and supported with training by the Field Offices.

Response. The CSP is a voluntary program which has been in existence since 1954. The rules and procedures applicable to the CSP are outlined in HUD's regulations, handbook and the CSP catalogues. These procedures fully explain the use of the CSP. The high cost of additional, complex marketing procedures is not warranted in view of the high level of fraud and abuse present in the program.

Comment: High CSP prices result from ambiguous information. One commenter stated that the ambiguity of CSP information given to contractors caused the contractors to establish higher prices than necessary.

Response. HUD agrees that CSP prices are generally higher. However, HUD disagrees that the higher CSP prices are the result of ambiguous information provided by HUD. On the contrary, many commenters have praised the HUD specifications on which contractors submit bids. HUD has found that higher CSP prices are the result of serious flaws in the framework of the program. As stated in the preamble to the June 10, 1991 proposed rule, because the CSP is designed to serve a variety of contracting jobs, CSP contracts are subject to contracts that involve extended terms, unknown quantities, and generalized specifications. The uncertainty and generality of these terms causes CSP contractors to establish higher prices for CSP items.

Comment: The CSP problems can be correctd through better enforcement. Several commenters challenged HUD's position that the problems with the CSP could not be corrected in a cost effective manner. These commenters stated that instead of terminating the CSP, HUD should increase its monitoring and enforcement of the program requirements. A few commenters stated that HUD was aware of certain "known" CSP violators and took no action against them. One commenter stated that HUD allowed a handful of violators to become the centerpiece of the OIG's audit, and the basis for termination of the program.

Response. HUD agrees with the commenters that increased enforcement of existing CSP rules would help identify and reduce program abuses. However, HUD has concluded that the low volume of CSP sales does not justify diverting limited HUD staff and travel resources to increase the level and quality of monitoring that would be necessary to halt these abuses and to ensure the integrity of the CSP. HUD believes that it would be more prudent to use its resources to provide assistance to programs more widely used by and more critical to the operation of PHAs.

HUD denies the allegation that it took no action against certain "known" CSP violators, or that the problems with CSP were caused by a handful of violators. The OIG audits, conducted over the past several years have documented that the abuses in the program go beyond a few vendors. HUD has taken administrative sanctions whenever evidence revealed CSP abuses and identified program violators. HUD cannot take action against a CSP contractor based only on what others "believe" to be the case. In many situations, it was difficult for HUD to identify contractor violations because PHAs, on which HUD relies to assist with enforcement of contracts, often acted in collusion with these violators.

Comment: HUD's termination proposal failed to provide detailed findings concerning the termination decision. One commenter stated HUD's proposal to terminate the CSP should be given further review through correspondence with CSP users. The commenter stated that HUD should send a detailed list of findings to all CSP users, and should solicit comment on these findings.

Response. In the preamble to the June 10, 1991 proposed rule, HUD discussed in detail the problems uncovered in the CSP, and HUD's reasons for proposing termination, rather than redesign, of the program. (See 56 FR 26628–26629.) The June 10, 1991 rule invited comment from the public on HUD's proposal to terminate. In addition to solicitation of public comment through the June 10, 1991 proposed rule, the Assistant Secretary of HUD's Office of Public and Indian Housing invited interested CSP participants to a meeting to discuss the OIG's audit findings on the CSP and the issue of continuation of the program. The meeting was held on August 10, 1990, and attendees included representatives from NAHRO and PHADA, CSP contractors, auditors and other individuals interested in the program. Thus, the decision to terminate the CSP was made only after: (1) A thorough evaluation of the program by HUD; (2) full disclosure to the public of the problems with the CSP and of HUD's proposal to discontinue the program; and (3) careful consideration of public comments on the CSP—comments made at the August 10, 1990 meeting and in response to the June 10, 1991 proposed rule. HUD therefore disagrees that further analysis and public comment on termination of the CSP is necessary.

Comment: HUD's proposal to terminate the CSP constitutes a "major rule". One commenter stated the June 10, 1991 proposed rule constitutes a "major rule" under Executive Order 12291. The commenter stated that termination of the CSP would have a significant impact on a substantial number of small entities because it will change the way public housing authorities throughout the nation will spend billions of dollars of federal funds annually on materials, supplies, services and equipment. The commenter also stated that termination of the CSP would cause a major increase in costs or prices for consumers and for local government agencies because, in many instances, the CSP provides bigger discounts than what local governments can receive on the local market.

Response. Termination of the CSP will not have an annual effect on the economy of $100 million or more, nor will it cause a major increase in the costs or prices for consumers or for local government agencies. As has been stated several times in this preamble, purchase of items through CSP constitutes a small percentage of total PHA procurement. The majority of PHAs, including small PHAs, purchase

items through the local competitive bid process, not through the CSP. In addition, PHAs will need to purchase the same products and services with or without the CSP. Termination of the program only shifts the procurement mode from the CSP to direct competitive solicitations by the PHAs. Accordingly, termination of the CSP will not cause a significant change in the way most PHAs currently carry out their procurement.

4. Recommendations for Improved PHA Procurement

Comment: Postpone termination of CSP until the GSA schedule is available. Two commenters stated that HUD should postpone termination of the CSP until legislation is passed which makes the GSA schedule available to PHAs.

Response. Given the extent of problems with the CSP, it is not prudent for HUD to continue operation of the CSP until the GSA schedule is available.

However, while waiting for the GSA schedule to be made available to PHAs, PHAs will not be without procurement assistance. The guide specifications that HUD will make available for a number of CSP products will assist PHAs in conducting their own competitive procurement.

In addition, many States operate programs similar to the GSA Schedule. PHAs can and should purchase goods through these programs when prices are determined to be advantageous. Further, PHAs can form consortiums to make group purchases and take advantage of discounts available when making volume purchases. Any such purchases would have to conform to HUD procurement requirements at 24 CFR 85.36.

Comment: The GSA schedule is currently not an acceptable procurement source. Two commenters stated that procurement through the GSA schedule should be pursued as an additional procurement source for PHA, and not as an alternative to the CSP. The commenters stated that if at some future time, procurement through the GSA schedule is proven to provide the same benefits as the CSP, the usefulness of the CSP could be reconsidered at that time. Another commenter stated that procurement through the GSA schedule is not an acceptable substitute for the CSP because installed items, representing 59 percent of CSP sales, are not available on the GSA schedule, and HUD has identified only five CSP items that are included on the GSA schedule.

Response: As stated above, HUD does not believe it is prudent to delay termination. HUD is aware that installed items are not available on the GSA schedule, and HUD will not seek to have installed items included on the GSA schedule because many of the CSP program violations involve installed items.

With respect to the number of CSP items currently listed on the GSA schedule, the five CSP items identified by HUD were provided as examples of CSP items that are available through the GSA schedule. This does not mean that these are the only CSP items listed on the GSA schedule. There are a number of items on the GSA schedule of use to PHAs, and many items that were not available through the CSP, such as maintenance and office equipment. HUD will work with the GSA to include more CSP items on the GSA schedule. HUD also will work with the GSA to modify or add specifications which are tailored to PHAs.

Comment: PHA procurement should not be limited to competitive bidding. One commenter stated that there should be means of procurement other than through the competitive bid process.

Response. The methods of procurement for grantees receiving Federal funds, and the rules and requirements applicable to these methods, are prescribed in the HUD common rule at 24 CFR 85.36. These methods are government-wide and include procurement by sealed bids, small purchases, procurement by competitive proposals, and procurement by noncompetitive proposals. Accordingly, depending upon the type of procurement to be undertaken, a PHA may follow one of several procurement methods.

Comment: Improve the CSP by eliminating the installation aspect of the program. Two commenters stated that eliminating the installation aspect of the CSP would eliminate a substantial part of the problem with the CSP. One commenter stated that part of the problem with the installation aspect of the CSP is that contractors do not retain sufficient control over installation that is subcontracted out, and PHAs do not have an adequate inspection program. The commenter stated: "Originally the CSP was not intended to include installation. If this is eliminated, the control and responsibility reverts to the PHA."

Response. HUD agrees that the installation aspect of the CSP represents a significant part of the problem with the CSP. However, elimination of the installation component of the CSP will not significantly improve the program to justify its continuation. With or without the installation component of the program, purchases made under the CSP are not sufficient to justify the expenditure of additional funds to effectively monitor and enforce compliance with the program requirements.

Comment: HUD should vest CSP enforcement responsibility with one office. One commenter stated that HUD should vest overall CSP enforcement responsibility with one office or person, which would be empowered to resolve disputes and to recommend sanctions against any violators of the program.

Response. The current method of administering the program was decided upon as the most effective system to assure proper contract administration while at the same time allow for policy development and catalog preparation. Since the CSP is operated nationwide, HUD's Regional and Field Offices have monitoring and enforcement responsibilities for PHAs within their jurisdiction. HUD believes that these local offices are better able to carry out these duties because of their geographical proximity to the PHAs.

Comment: HUD should appoint a task force to oversee the CSP. One commenter recommended the appointment of a task force consisting of HUD Field and Headquarters personnel, PHA procurement personnel, testing agencies and industry personnel. The commenter stated that the task force would have a twofold mission: (1) To research and develop product specifications; and (2) to institute guidelines and procedures for the establishment of this group as a permanent, integral and contributing part of the CSP.

Response. The problems with the CSP are not with product specifications or with establishing guidelines and procedures. The major problem with the CSP is with its very structure. The CSP is a program designed to serve a maximum number of PHAs for a variety of contracting jobs. However, because specific jobs are unknown at the time contracts for these jobs are solicited (unlike the situation in a competitive bid process), the CSP contracts are subject to contracts which involve extended terms, unknown quantities and generalized specifications. The uncertainty of these contract terms results in higher CSP prices. The higher CSP prices account for the majority of PHAs purchasing the greater part of needed supplies and items through the competitive bidding process.

Comment: HUD should continue the CSP for small PHAs only. One commenter stated that because termination of the CSP will cause a financial hardship for small PHAs, the

CSP should remain available for small PHAs only.

Response. HUD recognizes that the CSP is beneficial to some small PHAs. However, limiting the use of the CSP to small PHAs is not sufficient to justify continuation of the program. Current active participation in the CSP, even among small PHAs, is not sufficient to justify the time and resources to continue to operate the CSP in a cost-effective manner, with minimum violations.

Comment: HUD should limit the number of vendors in the CSP, and only provide manufacturer direct merchandise and prices. One commenter stated that the CSP could be improved by having fewer vendors supply the materials. The commenter stated that limiting the number of CSP vendors would increase the competitiveness of the vendors and reduce the cost of CSP items.

Response. Were HUD to retain the CSP under the proposal recommended by the commenter, the program would be unduly restrictive and limit, not increase, competition. HUD finds no basis to conclude that fewer vendors in the program would result in reduced costs to PHAs.

Comment: Several reforms would improve the CSP and eliminate program abuses. Four commenters recommended several reforms that they believed would significantly improve the CSP, and reduce program abuses. Their comments are as follows:

a. Reforms recommended by NAHRO and PHADA. NAHRO and PHADA recommended the following changes to the CSP: (1) Exclude freight/destination charges from CSP bids; (2) exclude all local tax, permit and fee costs from CSP bids; (3) exclude regional Davis-Bacon wage requirements from CSP bids; and (4) adopt a 10 percent ceiling on change orders for installed products.

Response. HUD does not agree that the commenters' recommended reforms would improve the CSP for the following reasons:

(1) Excluding freight would make the CSP program more complicated and difficult to administer. PHAs would have to negotiate freight charges separately on each purchase, which would increase CSP prices or present another potential source of abuse;

(2) It is impossible to restructure the CSP to avoid the inclusion of contingencies in contractors' bids. To pay local fees separately would unnecessarily complicate the CSP ordering process.

(3) The CSP program operates on a regional basis. To change to another more localized system would impose prohibitive costs on the procurement process for HUD.

(4) The CSP does not provide for a ceiling because of the uncertainty surrounding possible required changes. Thus, a 10 percent ceiling will not alleviate this problem.

b. Recommendations by a CSP contractor. A CSP contractor recommended the following changes for improvement of the CSP: (1) Impose stricter qualification for bidders; (2) limit the tiers of subcontractors; (3) require site supervision by the contract holder; (4) standardize the ordering format; and (5) clarify the CSP procedures to PHAs and HUD Area Offices.

Response. These changes would not significantly improve the CSP for the following reasons:

(1) The qualifications governing bidders on HUD contracts are set forth in 24 CFR 85.36 and are part of uniform administrative requirements governing the award of all Federal contracts. Section 85.36 provides that awards only will be made to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. This section further provides that in making this determination, consideration is to be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(2) Subcontracting is the responsibility of the contractor. Although subcontractors to a Federal contract are obligated to comply with the same Federal requirements as contractors, to limit the number of subcontractors that a contractor may employ would constitute undue interference with a contractor's business on the part of the Federal Government.

(3) HUD agrees that site supervision is necessary. The current HUD form of "Owner-Architect Agreement" requires the PHA architect or engineer to supervise construction, or, in the case of the CSP, installation.

(4) While a standardized purchase order could be helpful, it is not clear how this change would help eliminate some of the principal problems with the CSP.

(5) The current CSP procedures are clear. The problem has been that many PHAs and CSP contractors failed to follow these procedures.

c. Reforms recommended by a public housing agency. A PHA suggested the following changes to the CSP:

(1) Require the PHA to submit to the applicable HUD Field Office, the final proposal from the CSP contractor with a copy of the purchase order;

(2) Require that all items procured outside of the CSP contract, but that are necessary or incidental to the work being performed, be reviewed and approved by the applicable HUD Field Office, prior to the PHA's execution of the purchase order. HUD may wish to assign a dollar threshold to this amount similar to the threshold already assigned to PHAs for their general contracts;

(3) Require HUD to monitor CSP contracts to the same extent that it monitors general contracts;

(4) Require CSP contracts to be issued on a regular, and timely basis instead of extending contracts to a period often double in length of the original CSP contract. By keeping the contracts on schedule, the "additional inflation" factors that CSP contractors now add to their CSP contracts would be eliminated, and prices would be lower; and

(5) Penalize the CSP contractor and/or housing authority that violates the regulations.

Response. The first suggestion is already a requirement of the program. Award of contracts outside of the CSP without the benefit of further competition is inconsistent with Federal regulations on grantee procurement, regardless of any HUD review or dollar threshold. HUD agrees that monitoring of CSP contracts is important and requires its Field Offices to do so, but to substantially curtail program abuses, increased program monitoring is needed. HUD does not believe that the resources required to achieve and maintain this level of program monitoring is justified, given the low volume of CSP sales. HUD also agrees that issuance of timely contracts is important and that extensions should be limited. However, this change would not solve the basic flaws in the CSP previously discussed in this preamble. As also discussed previously, HUD has taken action against PHAs and contractors found to have violated the program requirements. To identify and take action against all violators requires the utilization of additional resources that are not justified by the level of PHA participation in the program.

III. Other Matters

Regulatory Impact

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices

for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect 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.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule terminates the CSP, a program that provided technical procurement assistance to PHAs. Purchases made by PHAs and IHAs, including small PHAs, through this program constituted a small percentage of annual total PHA procurement. Accordingly, the termination of the program will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. Additionally, HUD will continue to provide technical procurement assistance by making guide specifications available to PHAs and IHAs for many items formerly obtained through the CSP.

Environmental Impact

At the time of publication of the proposed rule on June 10, 1991, a Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact remains applicable to this final rule, and is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule do not have Federalism implications and, thus, are not subject to review under the Order. No programmatic or policy changes would result from this rule's promulgation which would affect existing relationships between the Federal government and State and local governments.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have a potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. No significant changes in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

Regulatory Agenda

This rule was listed as sequence number 1514 in the Department's Semiannual Agenda of Regulations published on October 21, 1991 (56 FR 53380, 53430) under Executive Order 12291 and the Regulatory Flexibility Act.

Lists of Subjects

24 CFR Part 905

Grant programs—Indians, Low and moderate income housing, Aged, Grant programs—housing and community development, Handicapped, Indians, Loan programs—housing and community development, Loan programs—Indians, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 965

Energy conservation, Government procurement, Grant programs—housing and community development, Lead poisoning, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements, Utilities.

24 CFR Part 968

Grant programs—housing and community development, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, 24 CFR parts 905, 965, 968 are amended as follows:

PART 905—INDIAN HOUSING PROGRAMS

1. The authority citation for part 905 continues to read as follows:

Authority: 42 U.S.C. 1437aa, 1437bb, 1437cc, 1437ee; 25 U.S.C. 450e(b); 42 U.S.C. 3535(d).

§ 905.175 [Amended]

2. Paragraph (f) of § 905.175 is removed.

3. In § 905.640, paragraph (c) is revised to read as follows:

§ 905.640 Contracting requirements.

* * * * *

(c) *Sealed bid (formal advertising) requirements.* For each construction or equipment contract over $25,000, the PHA shall conduct formal advertising as provided in § 905.175(c).

* * * * *

PART 965—PHA-OWNED OR LEASED PROJECTS—MAINTENANCE AND OPERATION

Subpart G—Consolidated Supply Program

4. The authority citation for part 965 continues to read as follows:

Authority: 42 U.S.C. 1437, 1437a, 1437d, and 1437g; 42 U.S.C. 3535(d). Subpart H is also issued under 42 U.S.C. 4821–4846.

§§ 965.601–965.605 [Removed and reserved]

5. Subpart G (§§ 965.601–965.605) is removed and reserved.

PART 968—PUBLIC HOUSING MODERNIZATION

6. The authority citation for part 968 continues to read as follows:

Authority: 42 U.S.C. 1437d and 1437l; 42 U.S.C. 3535(d).

7. In § 968.240, paragraph (c) is revised to read as follows:

§ 968.240 Contracting requirements.

* * * * *

(c) *Sealed bid (formal advertising) requirements.* For each construction or equipment contract over $25,000, and lead-based paint testing services over $25,000, the PHA shall conduct formal advertising as required in 24 CFR 85.37(d)(2).

* * * * *

Dated: March 2, 1992.

Joseph G. Schiff,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 92–5231 Filed 3–5–92; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8245]

Consolidated Return Regulations—Distributions After the Sale of Stock of a Subsidiary; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary and final regulations; Correcting amendment.

SUMMARY: This document contains corrections to the temporary and final regulations (T.D. 8245), which were published Thursday, March 16, 1989 (54 FR 10980). The regulations related to a dividend or other distribution subject to section 301 that is declared with respect to stock of a subsidiary member of an affiliated group filing consolidated Federal income tax returns if the stock of that subsidiary member is disposed of before the distribution is made, but after the selling member becomes entitled to the distribution.

EFFECTIVE DATE: March 16, 1989.

FOR FURTHER INFORMATION CONTACT: Steven B. Teplinsky, 202–566–4324 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary and final regulations that are subject of these corrections amended temporary regulation § 1.1402–32T and added cross-references to §§1.1502–14(a) and 1.1402–32 (b) and (c).

Need for Correction

As published, the temporary regulations contain material incorrectly appearing at the end of § 1.1502–32T(b) which may prove to be misleading and is in need of being removed.

List of Subjects in 26 CFR 1.1502–12 Through 1.1502–34

Income taxes.

PART 1—INCOME TAXES; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

1. The authority citation for part 1 continues to read in part:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805, 26 U.S.C. 6038 and 26 U.S.C. 6038A * * *

§ 1.1502–32T [Corrected]

2. In § 1.1502–32T, the undesignated paragraph following paragraph (b)(3) is removed.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92–5170 Filed 3–5–92; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 287

Defense Communications Agency (DCA) Freedom of Information Act Program; Correction

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule; correction.

SUMMARY: On November 20, 1991 (56 FR 58501), the Department of Defense published a revision of the heading for 32 CFR part 287. This document corrects the heading for 32 CFR part 287.

EFFECTIVE DATE: March 6, 1992.

FOR FURTHER INFORMATION CONTACT: L. Bynum, 703–697–4111. Accordingly, the heading for 32 CFR part 287 is corrected to read as follows:

PART 287—DEFENSE COMMUNICATIONS AGENCY (DCA) FREEDOM OF INFORMATION ACT PROGRAM

Dated: March 2, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–5190 Filed 3–5–92; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL–4112–6]

State and Local Assistance

AGENCY: Environmental Protection Agency.

ACTION: Final rule; Technical amendment.

SUMMARY: This document amends a final rule on allotments of grant funds to States under the Environmental Protection Agency's Hazardous Waste Management program authorized by section 3011 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6931. This action is necessary to make the regulatory language precisely like the statutory provision. The regulation at 40 CFR 35.115(i) lists specific technical criteria established by section 3011 upon which the Agency bases the allotment of grant funds to States. The regulation as originally published, however, inadvertently failed to include the general authority in the statute to consider "such other factors as the Administrator deems appropriate." As a result, EPA has found it necessary to seek deviations from its grant allocation regulations in order to allot grant funds for activities (e.g., corrective actions) permissible under the broader statutory authority, but not authorized by the narrower regulatory provision. This action adds that authority to the existing allotment criteria to bring the regulatory language into conformance with the statutory language upon which the regulation is based.

EFFECTIVE DATE: March 6, 1992.

FOR FURTHER INFORMATION CONTACT: Richard E. Mitchell, Grants Administration Division (PM–216F), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–6078.

SUPPLEMENTARY INFORMATION:

List of Subjects in 40 CFR Part 35

Grant programs, Hazardous waste, and Waste treatment and disposal.

Dated: February 10, 1992.

Christian R. Holmes,

Acting Assistant Administrator for Administration and Resources Management.

For the reasons set out in the preamble, title 40, chapter I, part 35 of the Code of Federal Regulations is amended as follows:

PART 35—STATE AND LOCAL ASSISTANCE

Subpart A—Financial Assistance for Continuing Environmental Programs

1. Authority citation for part 35, subpart A, continues to read as follows:

Authority: Secs. 105 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7405 and 7601(a)); Secs. 106, 205(g), 205(j), 208, 310, 501(a) and 518 of the Clean Water Act, as amended (33 U.S.C. 1256, 1283(g), 1285(j), 1288, 1361(a), and 1377); Secs. 1443, 1450, and 1451 of the Safe Drinking Water Act (42 U.S.C. 300j–2, 300j–9, and 300j–11); Secs. 2002(a) and 3011 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6912(a), 6931, 6947, and 6949); and Secs. 4, 23, and 25(a) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136(b), 136(u), and 136w(a).

2. Section 35.115 is amended by revising paragraph (i) to read as follows:

§ 35.115 State allotments and reserves.

* * * * *

(i) Hazardous waste management allotment (Solid Waste Disposal Act, as amended, section 3011): The extent to which hazardous waste is generated, transported, treated, stored, and

disposed of in the State and the extent of exposure of human beings and the environment to such waste, and such other factors as the Administrator deems appropriate.

* * * * *

[FR Doc. 92–5257 Filed 3–5–92; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 52

[LA–5–1–5272; FRL 4108–5]

Approval and Promulgation of Air Quality Implementation Plans; Technical Amendment to Identification of Plan, Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Technical amendment.

SUMMARY: Today's action corrects an error made on March 8, 1989 (54 FR 9783), in which EPA erroneously approved amendment of the State Implementation Plan (SIP) to incorporate the Public Comment Provisions regulation recodified at Louisiana Administrative Code (LAC): Title 33 (Environmental Quality): Part III (Air). Chapter 5 (Permit Procedures). Section 505 (For Emissions Below PSD de minimus Levels). Paragraph I. EPA recently realized that text of the State-recodified new code regulation, LAD:33:III.505.I, is substantially changed from text of the corresponding EPA-approved old code regulation, section 6.6 of Louisiana Air Quality Regulations (LAQR). LAQR 6.6 was adopted by the State of Louisiana on February 26, 1981, submitted by the Governor to EPA on March 25, 1981, and approved by EPA on June 9, 1982 (47 FR 25012). New, revised and recodified air regulations were adopted by the State on December 20, 1987, and submitted by the Governor to EPA for approval and incorporation into the Louisiana SIP on January 6 and October 4, 1988. On March 8, 1989 (54 FR 9795), EPA conditionally approved recodification of those air regulations already approved as part of the Louisiana SIP—including LAQR 6.6—and containing either no changes at all, or only minor textual changes. Concurrently, EPA also approved amendment of the Louisiana SIP to include some new regulations and exclude other obsolete regulations. Today's rulemaking is necessary because EPA was unaware of, and does not approve of, certain textual changes made in the process of recodifying LAQR 6.6 to LAC:33:III.505.I. The effect of this notice is to amend the Louisiana SIP to incorporate LAQR 6.6 as previously approved by EPA on June 9, 1982 (47 FR 25013).

EFFECTIVE DATE: This action will become effective on May 5, 1992 unless notice is received within 30 days of publication that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the State submittal for this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency—Region 6, Air Planning Section (6T–AP), 1445 Ross Avenue, Dallas, TX 75202–2733,

Louisiana Department of Environmental Quality, Air Quality Division, 7290 Bluebonnet, Baton Rouge, LA 70810, and

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

Anyone wishing to review these documents should contact the person named below to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Bill Nally at (214) 655–7214. Please use the reference: LA–5–1–5272.

SUPPLEMENTARY INFORMATION:

Background

EPA recently identified unacceptable textual changes made to the Public Comment Provisions regulation at LAC:33:III.505.I in the process of recodifying LAQR 6.6 of the Louisiana SIP on March 8, 1989. Requirements for an acceptable State or local agency permitting program are specified in 40 CFR part 51 subpart I, Review of New Sources and Modifications. Specifically, §§ 51.160, Legally Enforceable Procedures, and 51.161, Public Availability of Information, apply to all construction or modification of a facility, building, structure or installation, or combination of these pollutant-emitting activities as defined in section 51.165, Permit Requirements. LAQR 6.6, the EPA-approved old code regulation, applies to every such construction or modification as well. However, the State-recodified new code regulation, LAC:33:III.505.I, is substantially changed from LAQR 6.6, and covers only new or modified major stationary sources. Consequently, LAC:33:III.505.I does not fulfill 40 CFR part 51 subpart I requirements to provide opportunity for public comments on the State or local agency analysis of construction or modification information submitted by owners and operators of any source affecting ambient air quality. EPA erroneously noted that no changes were made to LAQR 6.6 (see 54 FR 9786) and approved recodification of LAQR 6.6 to LAC:33:III.505.I, in effect incorporating LAC:33:III.505.I in the place of LAQR 6.6 in the Louisiana SIP. To correct the error, EPA is publishing this notice amending the Louisiana SIP to incorporate LAQR 6.6 as previously approved by EPA on June 9, 1982 (47 FR 25013).

EPA is publishing this action without prior public notice because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will become effective 60 days from the date of publication unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action, and a second will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Final Action

Today's notice amends the Louisiana SIP to incorporate LAQR 6.6 as approved earlier by EPA on June 9, 1982 (47 FR 25013), correcting an error made on March 8, 1989 (54 FR 9795), in which EPA erroneously approved recodification of LAQR 6.6 to LAC:33:III.505.I and effectively replaced LAQR 6.6 with LAC:33:III.505.I in the Louisiana SIP. The Louisiana Department of Environmental Quality agreed to both revise the Public Comment Provisions regulation recodified as LAC:33:III.505.I to meet appropriate requirements of 40 CFR part 51 subpart I, and submit the revised LAC:33:III.505.I as a SIP revision to EPA once the revised recodified regulation is adopted by the State. If no adverse or critical comments are received, the public is advised that this action will become effective 60 days from the date of publication.

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

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

This action has been classified as a Table 3 action by the Regional Administrator under the procedures established in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 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 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 May 5, 1992. Filing a petition for reconsideration of this final rule by the Administrator does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: February 14, 1992.

Joe D. Winkle,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

Subpart T—Louisiana

2. Section 52.970 is amended by adding paragraph (c)(58) to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(58) Louisiana Air Quality Regulation section 6.6 as revised and adopted by the Louisiana Environmental Control Commission on February 26, 1981, submitted by the Governor on March 25, 1981, and approved by the Environmental Protection Agency on June 9, 1982.

(i) *Incorporation by reference.* (A) Louisiana Air Quality Regulation section 6.6 as revised and adopted by the Louisiana Environmental Control Commission on February 26, 1981, submitted by the Governor on March 25, 1981, and approved by the Environmental Protection Agency on June 9, 1982.

(ii) *Additional material.* (A) Letter dated March 24, 1981, from the Secretary of the Louisiana Department of Natural Resources to the Governor of Louisiana acknowledging approval of Louisiana Air Quality Regulation section 6.6 by the Louisiana Environmental Control Commission effective on February 26, 1981.

[FR Doc. 92–5204 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[MO6–1–5333; FRL–4102–7]

Approval and Promulgation of Lead Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: As required by Section 110 of the Clean Air Act, the State of Missouri has submitted a State Implementation Plan (SIP) for lead to EPA for approval. This lead SIP provides for attainment of the National Ambient Air Quality Standards (NAAQS) in the vicinity of the Doe Run Herculaneum lead smelter in Herculaneum, Missouri. EPA's approval of this SIP revision provides federal enforceability of the state requirements to attain the NAAQS.

EFFECTIVE DATE: This rule will become effective on April 6, 1992.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; the Missouri Department of Natural Resources, Air Pollution Control Program, Jefferson State Office Building, 205 Jefferson Street, Jefferson City, Missouri 65101; and the Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Stanley A. Walker at (913) 551–7494 (FTS 276–7494).

SUPPLEMENTARY INFORMATION: On October 5, 1978, the NAAQS for lead were promulgated by the EPA (43 FR 46246). Both the primary and secondary lead standards were set at a level of 1.5 micrograms of lead per cubic meter of air averaged over a calendar quarter. During 1986, ambient air monitoring data showed that violations of the lead NAAQS were occurring in the vicinity of the Doe Run lead smelter located in Herculaneum, Missouri. In response to the violations of the lead standard, EPA called for a revision to the Missouri SIP on June 3, 1986.

In response to the SIP call, the state submitted a SIP revision for the DOE Run Herculaneum smelter on September 6, 1990; additional SIP materials were submitted on May 8, 1991.

On August 21, 1991, EPA published a Notice of Proposed Rulemaking (NPR) to approve the Missouri Doe Run Herculaneum lead SIP (56 FR 41500); no public comments were received on the NPR. For a complete discussion of the SIP and EPA's rationale for approval, the reader is referred to the above mentioned **Federal Register** notice.

Pursuant to the 1990 Clean Air Act Amendments, EPA designated the Herculaneum vicinity as nonattainment with respect to the lead NAAQS on November 6, 1991 (56 FR 56694).

Therefore, the Part D (Nonattainment Provisions) area requirements now apply to this SIP revision. In accord with section 191(a) of the Act, the state has until July 6, 1993 (18 months from the effective date of the nonattainment designation), to submit a plan revision which meets the applicable Part D requirements.

In the NPR, EPA stated that the Herculaneum area would likely be designated nonattainment and that it was proposing a limited approval of the state submittal (56 FR 41501). In view of the applicability of part D, due to the recent nonattainment designation, EPA is taking final action on a limited approval of the state submittal. EPA is granting a limited approval because the SIP provides progress toward improving air quality, but does not meet all the applicable requirements of the Act. EPA's aforementioned NPR provides additional discussion of the limited approval concept. No comments were received on the proposed limited approval. EPA's full and final approval of this SIP revision is contingent on the state's submittal of a supplemental plan revision which meets the applicable part D requirements. In the NPR, EPA

included proposed revisions to 40 CFR 52.1320 and 52.1323. In this rulemaking, EPA is making a minor revision to the language in proposed § 52.1323(g) to reflect the actual date of the nonattainment designation for the Herculaneum area, and to incorporate technical, nonsubstantive changes to the language of the proposal.

EPA Action

In today's notice, EPA takes final action on a limited approval of Missouri's September 6, 1990, and May 8, 1991, submittals which constitute the Doe Run Herculaneum lead SIP. Rule 10 CSR 10–6.120 contains provisions which are applicable to other lead smelters in the state. Lead SIP revisions for these other facilities are still under development; thus, EPA takes final limited approval action on this SIP revision only insofar as the Doe Run Herculaneum lead smelter is concerned.

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.

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 Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 5, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. 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, Lead, and Reporting and recordkeeping requirements.

Dated: February 3, 1992.

Morris Kay,

Regional Administrator.

40 CFR part 52, is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

Subpart AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(76) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(76) In submittals dated September 6, 1990, and May 8, 1991, the Missouri Department of Natural Resources submitted a lead NAAQS attainment plan for the Doe Run Herculaneum primary lead smelter. Although Missouri rule 10 CSR 10–6.120 contains requirements which apply statewide to primary lead smelting operations, EPA takes action on this rule only insofar as it pertains to the Doe Run Herculaneum facility. Plan revisions to address the other lead smelters in the state are under development.

(i) Incorporation by reference.

(A) New rule 10 CSR 10–6.120, Restriction of Emissions of Lead from Primary Lead Smelter-Refinery Installations, effective December 29, 1988, with amendments effective March 14, 1991.

(B) Consent order, entered into between the Doe Run Company and the Missouri Department of Natural Resources, dated March 9, 1990.

(C) Supplemental consent order, signed by the Doe Run Company on July 26, 1990, and by the Missouri Department of Natural Resources on August 17, 1990.

(ii) Additional material.

(A) Narrative SIP material, submitted on September 9, 1990. This submittal includes the emissions inventory and attainment demonstration.

(B) The Doe Run Herculaneum Work Practice Manual was submitted on May 8, 1991. In the May 8, 1991, submittal letter, the state agreed that any subsequent changes to the work practice manual would be submitted to EPA as SIP revisions.

3. Section 52.1323 is amended by adding paragraphs (f) and (g) to read as follows:

§ 52.1323 Approval status.

* * * * *

(f) The Administrator approves Rule 10 CSR 10–6.120 as identified under § 52.1320(c)(76), under the following terms, to which the state of Missouri has agreed. Subparagraph (2)(B)2.B.(IV) contains a provision whereby the Director of the Missouri Department of Natural Resources has discretion to approve revisions to the Doe Run Herculaneum work practice manual. Any revisions to the work practice manual, pursuant to this rule, must be submitted to EPA for approval as an individual SIP revision. Thus, any existing federally approved work practices remain in effect, until such time that subsequent revisions are submitted to EPA and approved as SIP revisions.

(g) The Administrator's approval of the Doe Run Herculaneum lead SIP, as identified under § 52.1320(c)(76) constitutes a limited approval in accord with a March 22, 1991, guidance memorandum from EPA's Office of Air Quality Planning and Standards. Pursuant to the 1990 Clean Air Act Amendments, EPA designated the Herculaneum, Missouri, area as nonattainment with respect to the NAAQS for lead on November 6, 1991 (56 FR 56694). The effective date of the nonattainment designation is January 6, 1992. In accord with section 191(a) of the Act, the state of Missouri must, within 18 months after the effective date of the nonattainment designation, submit a supplemental SIP revision for Doe Run Herculaneum which meets the applicable requirements of part D. EPA's full and final action on the Doe Run Herculaneum SIP is contingent on the state meeting the part D requirements.

[FR Doc. 92–5205 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[OK–7–1–5348; FRL–4105–9]

Approval and Promulgation of Air Quality Implementation Plans, Oklahoma; Sulfur Dioxide Emissions Trade for the Conoco, Incorporated, Ponca City Refinery

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves a source-specific revision to the Oklahoma State Implementation Plan (SIP) for the Conoco, Incorporated, Ponca City Refinery. The revision consists of a sulfur dioxide (SO_2) emissions trade for the construction and operation of a sulfur recovery unit (SRU) and a cogeneration unit. On September 25, 1991, EPA proposed approval of the Conoco SO_2 emissions trade (56 FR 48472). The intended effect of this action is to approve a SO_2 emissions trade consistent with the requirements of the Environmental Protection Agency's

(EPA) Emissions Trading Policy Statement (ETPS), published December 4, 1986 (51 FR 43814).

EFFECTIVE DATE: This rule will become effective on April 6, 1992.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region 6, Air Programs Branch (6T–A), 1445 Ross Avenue, Dallas, Texas 75202; Oklahoma State Department of Health, Air Quality Service (0201), 1000 Northeast 10th Street, Oklahoma City, Oklahoma 73117–1299; and Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robin M. Sullivan, Air Programs Branch, EPA Region 6, telephone (214) 655–7214 or (FTS) 255–7214.

SUPPLEMENTARY INFORMATION:

I. Background

EPA described the facts surrounding this SIP revision in its notice of proposed rulemaking on September 25, 1991, at 56 FR 48472. The Agency will not repeat that information in this notice, but will summarize the major issues and respond to comments received on the notice of proposed rulemaking. EPA recommends that interested readers examine that notice for a complete understanding of today's action.

On November 7, 1989, the Governor of Oklahoma submitted a request to revise the Oklahoma SIP. This request would make federally-enforceable a sulfur dioxide emissions trade for Conoco's Ponca City Refinery (Conoco) involving a construction permit and an operating permit approved by the Oklahoma State Department of Health (OSDH). On July 3, 1990, the Oklahoma Air Quality Service (AQS) submitted an operating permit, number 88–117–O, for a sulfur recovery unit (SRU) and a construction permit, number 88–116–C, for a cogeneration unit. The operating permit for the SRU was approved by the State under Oklahoma Air Pollution Control Regulation 1.6, "Alternate Emissions Reduction Permits". Regulation 1.6 is not part of Oklahoma's approved SIP, therefore, EPA approval of this permit is necessary to make it federally-enforceable.

The construction is to take place in two phases. The first phase involves the construction and operation of an SRU that will remove up to 20 long tons of sulfur per day from refinery fuel gas streams. The increase in SO_2 emissions from operation of the SRU will occur contemporaneously with an SO_2 emissions reduction from seven refinery furnaces, which will switch from operating on sour fuel gas to sweetened gas. The sweetened gas is generated from gas sweetening facilities utilizing amine contractors. The SRU receives off-gas from the gasoline sweetening facilities, performing the function of a pollution control device. Without the SRU, this off-gas would have to be flared, resulting in much higher SO_2 emissions.

In the second phase of the project, two cogeneration units will be constructed. The cogeneration units will result in increased SO_2 emissions, however, additional SO_2 reductions will occur from the shut down of four boilers currently fueled by sour refinery gas, and the curtailment of two boilers which will then be fired with partially sweetened refinery fuel gas. The actual SO_2 emissions increases and reductions are further discussed in the next section.

II. Sulfur Dioxide Emissions Trade

In the Oklahoma SIP, Regulation 3.4(c)(1)(C)(ii) limits the emissions of SO_2 from sulfur recovery plants to 20 pounds per ton of sulfur processed. This is equivalent to a minimum sulfur recovery efficiency of 99.5%. The emissions trade allows the new SRU to deviate from this Oklahoma SIP requirement and instead meet the requirements of Regulation 3.4(c)(1)(C)(i) which pertains to natural gas processing. This results in the SRU meeting a 94.5% SO_2 emissions reduction efficiency as allowed by Regulation 3.4(c)(1)(C)(i) rather than a 99.5% reduction as allowed by Regulation 3.4(c)(1)(C)(ii). Conoco contended that the 99.5% reduction efficiency requirement posed a substantial economic hardship for the SRU. The 94.5% reduction efficiency will allow the SRU to emit an additional 865 tons per year (TPY) more than it would at 99.5% efficiency.[1] Thus, an offset of at least 865 TYP was required for the emissions trade.

The State of Oklahoma does not allow the banking of emissions reduction credits (ERCs). Therefore, excess ERCs associated with the trade go to the benefit of the environment and may not be used by Conoco for future purposes.

Table 1 outlines to the SO_2 emissions associated with the SRU/cogeneration project. The first phase, or interim phase (post-SRU/pre-cogen), SO_2 reductions occur when seven existing furnaces within the refinery begin to operate on sweetened fuel gas from the new SRU. The increase in emissions from the SRU are compensated by a 2,320 tons per year (TPY) reduction in SO_2 from furnaces, H–5001, H–48A, H–48B, H–48C, H–48D, H–48E, and H–28. The sweetened fuel gas for the furnaces will result in a net refinery-wide SO_2 emissions reduction of 1,368 TYP. Of the total SO_2 emissions reductions, 325 TPY must be allocated to fulfill the requirements of a 1987 consent decree. Therefore, a net SO_2 emissions reduction of 1,043 TPY will be realized from the interim phase.

TABLE 1.—SO_2 EMISSIONS (TPY) FOR CONOCO'S SULFUR RECOVERY UNIT AND COGENERATION PROJECT

Affected unit	Pre emissions (pre-SRU/pre-cogen)	Interim emissions (post-SRU/pre-cogen)	Post emissions (post-SRU/post-cogen)
SRU	0	[1] 952 (865)	952
Cogeneration	0	0	109
Boilers:			
B–1	555	555	0
B–2	681	681	0
B–4	629	629	0
B–5	624	624	0
B–6	1009	1009	594
B–7	1352	1352	1014
Heaters:			
H–28	831	30	30
H–48A	438	20	20
H–48B	283	15	15
H–48C	206	11	11
H–48D	167	13	13
H–48E	193	8	8
H–5001	321	22	22
Total	7289	5921 [2] 1368–325	2788
Net emissions reduction		1043	3133

[1] The required offset is 865 TPY; however the net emissions reduction is calculated in terms of total SO_2 increases and is thus more conservative.
[2] Consent degree.

Upon startup of the cogeneration units, the post phase (post-SRU/post-cogen), four existing boilers, B–1, B–2, B–4, and B–5, will be permanently retired from service, while the use of two other boilers, B–6, B–7, will be curtailed. The startup of the cogeneration units will increase SO_2 emissions by 109 TPY and the reductions from boilers B–1, B–2, B–4, B–5, B–6, and B–7 will result in a reduction of 3,242 TPY of SO_2 emissions. Thus, the net reduction from the post phase will be 3,133 TPY of SO_2 emissions.

[1] It should be noted that the SRU was designed to operate at 20 tons per day of elemental sulfur processed. This size SRU is exempt from EPA New Source Performance Standards (NSPS) for SRUs. (See 40 CFR part 60 subpart J).

III. Ambient Equivalence Modeling

Conoco performed both Level II and Level III modeling consistent with the requirements of the ETPS to ensure that the emissions associated with the SRU and cogeneration project would not cause or contribute to a violation of the NAAQS for SO_2. EPA discussed this modeling in detail in its notice of proposed rulemaking on September 25, 1991 (56 FR 48472). The Agency will not repeat that discussion here, but recommends that interested readers refer to that notice for information on the modeling.

IV. Response to Comments

One comment letter was received in response to EPA's notice of proposed rulemaking; that letter was submitted by a representative of the Conoco, Inc., Ponca City Refinery. Conoco stated that it fully supports EPA's approval of the SO_2 emissions trade as a source-specific revision to the Oklahoma SIP. The comments were meant to provide clarification to some of the statements made in the notice of proposed rulemaking.

Comment: The notice of proposed rulemaking stated that an SO_2 emissions reduction would be achieved from seven refinery furnaces which will switch from operating on sour fuel gas to sweetened fuel from the SRU. Conoco clarified that the sweetened gas is generated from gas sweetening facilities utilizing amine contactors. The SRU receives off-gas from the gasoline sweetening facilities, performing the function of a pollution control device; without the SRU, this off-gas would have to be flared, resulting in much higher SO_2 emissions.

Response: EPA agrees with the clarification to this wording and has revised the language, as recommended, in the Background section of this notice.

Comment: In the discussion of the Level III modeling, the notice of proposed rulemaking stated that all point sources within a 50 kilometer (km) radius of the area of significant impact were explicitly modeled. Conoco provided clarification that all point sources within a 50 km radius were included in the analysis, but not explicitly modeled. As further discussed in the proposal, some sources were excluded from the modeling by applying EPA's "20–D Rule". Consequently, sources outside the area of significant impact, but within 50 km of that area, were excluded from the modeling if the entire facility's emissions were less than 20 times the distance from the facility to the area.

Response: EPA agrees with Conoco's clarification that all point sources within a 50 km radius of the area of significant impact were considered, but were not necessarily modeled, as explained above.

Comment: Conoco provided comments further supporting the use of 1974–1978 Ponca City meteorological data in the Level III modeling, rather than the use of more recent data from other areas in the State.

Response: As stated in the proposal, EPA believes that the 1974–1978 meterological data are the most representative available for Ponca City. The 1974–1978 data are the most recent available for the Ponca City area; the use of these data for the Level III modeling is more representative of the climatic conditions of the Ponca City area than more current data from other areas in the State.

Comment: Conoco's final comments pertain to the proposal's discussion of SO_2 ambient air quality in Kay County. Conoco reiterated that the modeling conducted for the emissions trade proved that the trade would not cause or contribute to a violation of the SO_2 NAAQS. Conoco stated that it believes the general issue of NAAQS compliance should be addressed as a separate issue. Conoco further noted that the OSDH/AQS has addressed EPA's concerns related to NAAQS compliance in the Kay County area and that EPA recognized that the area should not be designated nonattainment. In a September 30, 1991, letter from Mr. Robert E. Layton, Jr., P.E., Regional Administrator, EPA Region 6, to Mr. Mark S. Coleman, Commissioner for Environmental Health Services, OSDH, EPA stated its position that the Kay County area should not be designated nonattainment for the SO_2 NAAQS.

Response: EPA believes that a discussion of the ambient air quality in Kay County was indeed warranted in the notice of proposed rulemaking, even though the Level III modeling demonstrated that the SO_2 emissions trade would not cause or contribute to a violation of the NAAQS. The proposal explained that, based on monitoring data and supplementary modeling, EPA had taken the position that Kay County appeared to be violating the SO_2 NAAQS (see the April 22, 1991, **Federal Register** notice at 56 FR 16274). Since that time, however, the OSDH/AQS has submitted additional information supporting an attainment designation. Based on EPA's evaluation of this information, the Agency has decided to retain the area's attainment designation. This position was stated in the September 30, 1991, letter cited above and will be further addressed in a forthcoming **Federal Register** notice.

V. Final Action

Today, EPA is approving the SIP revision submitted by the Governor of Oklahoma on November 7, 1989, which includes permits number 88–117–O and 88–116–C. These permits allow the Conoco refinery to operate a sulfur recovery unit and to construct a cogeneration facility. EPA has determined that the emissions trade is consistent with the ETPS and that the emissions associated with the trade will neither cause nor contribute to a violation of the NAAQS for SO_2. By this action, EPA approves the SO_2 emissions trade resulting from the SRU and cogeneration project as a revision to the Oklahoma SIP.

Regulatory Process

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

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 (OMB) 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. EPA has submitted a request for a permanent waiver for Tables 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

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 May 5, 1992. Filing a petition for reconsideration of this final rule by the Administrator does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

The Agency has reviewed this request for revision of the federally approved SIP for conformance with the provisions of the 1990 Amendments enacted on November 15, 1990. The Agency has

determined that this action conforms with those requirements irrespective of the fact that the adoption of the revision by the State preceded the date of enactment.

List of Subjects in 40 CFR Part 52

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

Dated: February 10, 1992.

Joe D. Winkle,

Acting Regional Administrator.

40 CFR Part 52, is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

Subpart LL—Oklahoma

2. Section 52.1920 is amended by adding paragraph (c)(42) to read as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *

(42) On November 7, 1989, the Governor of Oklahoma submitted a revision to the SIP consisting of a construction permit, number 88–116–C, for a cogeneration unit and an operating permit, number 88–117–O, for a sulfur recovery unit. The revision involves a sulfur dioxide emissions trade for the Conoco, Incorporated, Ponca City Refinery.

(i) *Incorporation by reference.* (A) Permit number 88–116–C, as adopted by the Oklahoma State Department of Health (OSDH) on May 23, 1989.

(B) Permit number 88–117–O, as adopted by the Oklahoma State Department of Health (OSDH) on June 22, 1990.

(ii) *Additional material.* (A) The document issued by Conoco Ponca City Refinery, titled, "Level II Modeling Analysis in Support of Alternate Emissions Reduction Permit for Sulfur Recovery Plant" dated April 1990.

(B) The document issued by Conoco Ponca City Refinery, titled, "Level III Remodeling for an SO_2 Bubble Trade" dated June 3, 1991 (revised July 8, 1991).

[FR Doc. 92–5206 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 52

[VA–2–1–5301–A–1–FRL–4102–4]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Non-CTG Reasonably Available Control Technology for Nabisco Brands, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia. This revision establishes and requires the use of reasonably available control technology (RACT) to control volatile organic compound (VOC) emissions from Nabisco Brands, Inc. (Nabisco) in Henrico County, Virginia, which is part of the Richmond nonattainment area. Virginia is required to develop RACT regulations for VOC sources with the potential to emit 100 tons per year (TPY) or more for which EPA has not issued a Control Techniques Guidelines (CTG) document. Such sources are commonly referred to as non-CTG sources. Nabisco's facility in Henrico County is a non-CTG VOC source subject to RACT under the Virginia SIP. The intended effect of this action is to approve non-CTG RACT requirements for Nabisco's facility in Henrico County, Virginia. This approval is based on a determination that these requirements represent RACT for this source. This action is being taken in accordance with section 110 and part D of the Clean Air Act.

EFFECTIVE DATE: This action will become effective May 5, 1992, unless notice is received within April 6, 1992, that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Comments may be mailed to Thomas J. Maslany, Director, Air, Radiation and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and the Virginia Department of Air Pollution Control, P.O. Box 10089, Richmond, Virginia 23240.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, (215) 597–9337; FTS 597–9337.

SUPPLEMENTARY INFORMATION: On April 29, 1991, the Commonwealth of Virginia submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of Consent Agreement and Order No. DTE–179–91 (the Order), between the State Air Pollution Control Board (SAPCB) of the Commonwealth of Virginia and Nabisco Brands, Inc. (Nabisco). The Order was signed by Nabisco's Vice President of Manufacturing on April 18, 1991 and the Executive Director of the Virginia SAPCB on April 24, 1991. The Order became effective on April 24, 1991.

In the **Federal Register** on November 24, 1987, EPA's Proposed Post-1987 Policy for Ozone and Carbon Monoxide stated that air quality monitors revealed continued exceedances of the National Ambient Air Quality Standards (NAAQS) for ozone and carbon monoxide in Virginia and that a SIP call would be issued. (See 52 FR 45044.) On May 26, 1988, the Regional Administrator of EPA Region III notified the governor of Virginia that the Commonwealth's SIP was substantially inadequate to achieve the ozone and carbon monoxide NAAQS for certain areas in Virginia, including Henrico County in the Richmond-Petersburg metropolitan statistical area, and therefore required a SIP revision. As prescribed by the SIP call, Virginia is required to develop reasonable available control technology (RACT) regulations in all its nonattainment areas for all VOC sources with the potential to emit 100 tons per year (TPY) or more for which EPA has not issued a Control Techniques Guidelines (CTG) document. Such sources are known as non-CTG sources. One of the non-CTG sources identified as requiring RACT is Nabisco's facility in Henrico County. Henrico County is located in the Richmond area, which is currently designated nonattainment for ozone. Therefore, Virginia is submitting this Order as a SIP revision to fulfill part of its SIP call obligation.

In addition, this SIP revision serves to fulfill one of the RACT fix-up requirements of the Virginia SIP required by section 182(a)(2)(A) of the Clean Air Act as amended by the Clean Air Act Amendments of 1990, Public Law 101–549. Areas classified as marginal nonattainment areas for ozone pursuant to section 181(a) of the Clean Air Act, as amended, are required to meet the RACT fix-up requirements. Under Section 182(a)(2)(A), a state is

required to submit, within six months of such classification, a SIP revision to correct requirements in (or add requirements to) the plan concerning RACT, as interpreted in guidance issued by the Administrator under Section 108 of the Act before November 15, 1990.

Background

On January 11, 1991, the Virginia Department of Air Pollution Control (VDAPC) submitted to EPA a proposed amendment to the Virginia SIP for review and comment. The submittal consisted of a draft Order between the Virginia SAPCB and Nabisco and a draft of the RACT determination for Nabisco's facility in Henrico County, Virginia (Source Registration No. 50703). EPA reviewed the draft documents and provided comments on February 4, 1991.

Virginia submitted the final Order, No. DTE–179–91, along with the final RACT determination, as a formal SIP revision on April 29, 1991. The Order was signed by the Nabisco's Vice President of Manufacturing on April 18, 1991 and the Executive Director of the Virginia SAPCB on April 24, 1991. The effective date of the Order is April 24, 1991.

Summary of SIP Revision

The Order determines and imposes RACT on Nabisco, as required by Section 120–04–0407, "Standard for Volatile Organic Compounds", of Virginia's SAPCB Regulations.

Nabisco produces cookies, crackers, and pretzels at its Henrico County, Virginia plant. It is a major VOC source in the Richmond-Petersburg nonattainment area, with the potential to emit 266 TPY. The plant operates 24 hours/day and 5 days/week. The plant uses two different types of dough to produce its baked goods: Sponge-dough and straight-dough. In the sponge-dough process, yeast is used as the leavening agent and ethanol is a product of the yeast's metabolic fermentation. In the straight-dough process, the dough is leavened without yeast and the amount of VOC produced is relatively low. The possible sources of VOC at this plant are the ovens, proof room, and oil treatment facilities. The majority of VOC emissions are from Oven No. 1, which produces crackers using a sponge-dough process.

Sponge dough in Oven No. 1

Oven No. 1 produces crackers using a sponge-dough process and has the potential to emit 261 of the plant's 266 TPY of VOC. By design, cracker production in Oven No. 1 is limited to 8953 pounds/hour and 108 tons/day (TPD). Any increase in production would require physical modification to the oven. Virginia has determined that RACT for Oven No. 1, when baking sponge-dough, is catalytic incineration with 95% destruction efficiency on a mass basis. This oven will also meet the criteria for a permanent total enclosure when baking sponge-dough. These measures will reduce VOC emissions from Oven No. 1 to a maximum of 14 TPY.

Oven Nos. 2–6 and 8–10

Oven Nos. 2–6 and 8–10 use straight-dough processes, which chemically leaven dough and produce relatively low levels of VOC. Uncontrolled VOC emissions from these eight ovens is estimated to be less than 5 TPY. Virginia has determined that RACT for these ovens is no add-on control, but limiting production to only straight-dough.

Oven No. 7

Oven No. 7 is regulated by a new source permit and therefore not subject to the Order.

Oil Treatment Facilities

The plant has three oil treatment facilities, which are located at Oven Nos. 1, 2, and 4. The oil treatment facilities are chambers in which vegetable oil is sprayed on baked crackers for flavoring. Vegetable oils are not considered VOCs for the purpose of control programs, according to the OAQPS August 21, 1990 policy memo, "Interpretation of VOC Definition as Applied to Vegetable Oil". Virginia has determined that RACT for the oil treatment facilities is limiting the type of oil used to only vegetable oil.

Proof Room

Doughs are enclosed in the proof room and proofed from one hour for straight-dough to 24 hours for sponge-dough. Uncontrolled VOC emissions from the proof room are estimated to be less than 0.4 TPY. Virginia has determined that RACT for the proof room is no control.

For more information on Virginia's RACT determination and the specific provisions of the Order, please refer to the Technical Support Document (TSD) prepared for this notice. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the Addresses section of this notice.

EPA's review of this material indicates that Consent Agreement and Order No. DTE–179–91, between the Virginia SAPCB and Nabisco, imposes requirements on Nabisco's facility in Henrico County which constitute RACT for Nabisco's VOC emitting processes.

EPA is approving the Virginia SIP revision, which was submitted on April 29, 1991. The Commonwealth of Virginia certified that a public hearing with regard to this proposed SIP revision was held on February 20, 1991 in Richmond, Virginia, as required by 40 CFR 51.102. EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by simultaneously publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective on May 5, 1992.

Final Action

EPA is approving this request for a revision to the Virginia SIP, which the VDAPC submitted on April 29, 1991. The revision consists of Consent Agreement and Order No. DTE–179–91, between the Virginia SAPCB and Nabisco, which imposes RACT on the Nabisco facility in Henrico County, Virginia. The effective date of Order No. DTE–179–91 is April 24, 1991.

The Agency has reviewed this request for revision of the federally-approved State Implementation Plan for conformance with the provisions of the Clean Air Act Amendments of 1990, Public Law 101–549, effective November 15, 1990. The Agency has determined that this action conforms with those requirements.

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

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action, pertaining to the approval of RACT for this non-CTG source in Henrico County, Virginia, 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 Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 5, 1992. Under Section 307(b)(2) of the Act, this action may not be challenged later in proceedings to enforce its requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 27, 1992.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7642.

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(95) to read as follows:

§ 52.2420 Identification of plan.

* * * * * * *

(c) * * *

(95) Revisions to the State Implementation Plan submitted by the Virginia Department of Air Pollution Control on April 29, 1991.

(i) Incorporation by reference.

(A) Letter from the Virginia Department of Air Pollution Control dated April 29, submitting a revision to the Virginia State Implementation Plan.

(B) Consent Agreement and Order No. DTE–179–91 between Nabisco Brands, Inc. and the Virginia State Air Pollution Control Board, effective on April 24, 1991.

(ii) Additional materials.

(A) Technical Support Document for the RACT Determination for Nabisco Brands, Inc., Henrico County, VA; Consent Agreement and Order No. DTE–179–91.

[FR Doc. 92–5203 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[IN 2–2–5177; FRL–4096–5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving State submitted revisions to the Indiana State Implementation Plan (SIP) for ozone. These revisions modify Indiana's Volatile Organic Compound (VOC) emission control regulations (rules) to eliminate rule deficiencies identified in a June 17, 1988, letter from the USEPA to the Indiana Department of Environmental Management (IDEM). The Clean Air Act, as amended in 1990, required States to correct their SIPs to include Reasonably Available Control Technology (RACT) regulations as required under pre-amended section 172(b) as interpreted in USEPA's pre-amendment guidance. The June 17, 1988, letter discussed rule revisions needed to correct the State's rules to comply with RACT guidelines. USEPA proposed approval of these requested revisions to the Indiana SIP on January 2, 1991, (56 FR 51).

USEPA is approving all of the rule revisions (with the exception of revisions to the pneumatic rubber tire manufacturing rule, to be addressed in a separate rulemaking) fully adopted by the State of Indiana and cumulatively addressed in State submittals on November 18, 1988, March 9, 1990, October 23, 1990, May 15, 1991, and August 19, 1991. (The rule revisions addressed in the May 15, 1991, submittal and adopted after the January 2, 1991, NPR were addressed as preliminarily adopted rule revisions in the October 23, 1990, submittal and in the NPR. The State submitted these rule revisions for parallel processing.) These rule revisions eliminate all of the rule deficiencies identified in the June 17, 1988, letter except the lack of acceptable emissions capture efficiency test methods. The State has submitted an acceptable schedule to correct this remaining deficiency.

EFFECTIVE DATE: April 6, 1992.

ADDRESSES: Copies of the SIP revisions are available at the following addresses for review: (It is recommended that you telephone Randolph O. Cano at (312) 886–6036, before visiting the Region V office.)

U.S. Environmental Protection Agency, Region V, Regulation Development Branch, 230 South Dearborn Street, Chicago, Illinois 60604

Indiana Department of Environmental Management, Office of Air Management, 105 South Meridian Street, Indianapolis, Indiana 46206

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

FOR FURTHER INFORMATION CONTACT: Edward J. Doty, U.S. Environmental Protection Agency, Region V, Regulation Development Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6057.

SUPPLEMENTARY INFORMATION:

Background

On November 18, 1988, March 9, 1990, and October 23, 1990, the IDEM submitted VOC emission control rules as proposed revisions to Indiana's SIP for ozone. These revisions were submitted to correct deficiencies in Indiana's VOC rules identified in a June 17, 1988, letter from the USEPA to the IDEM. The June 17, 1988, letter was a followup letter to USEPA's May 26, 1988, notification to Indiana under section 110(a)(2)(H) of the Clean Air Act (Act), as amended in 1977, that Indiana's ozone SIP was substantially inadequate.[1]

The Clean Air Act, as amended in 1990, specifically provides that States must correct their RACT rules as required by section 172(b) of the pre-amended Act and as interpreted in USEPA's pre-amendment guidance issued pursuant to section 108. Section 182(a)(2)(A). Since the June 17, 1988, letter informed Indiana of the State's RACT deficiencies as interpreted in USEPA's guidance,[2] the amended Act carries forth the requirement that Indiana make the regulation corrections identified in the June 17, 1988, letter.

On January 2, 1992, (56 FR 51) the USEPA proposed to approve the corrected VOC rules as being consistent with the SIP call and as meeting the RACT "fix-up" requirement of section 182(a)(2)(A) of the amended Act. In this NPR, USEPA noted that some of the corrected rules had only been

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[1] On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted, Pub. L. 101–549, codified at 42 U.S.C. 7401–7671q (1991). The amended Clean Air Act substantially retains the requirement of pre-amended section 110(a)(2)(H). 42 U.S.C. section 7410(a)(2)(H).

[2] The June 17, 1988, letter was based on the Blue Book and USEPA's post-1987 ozone policy.

preliminarily adopted by the Indiana Pollution Control Board (IPCB). The rules that were preliminarily adopted by the IPCB were submitted to the USEPA for parallel processing. These preliminarily adopted rule revisions were proposed for approval in the NPR, but the USEPA noted in the NPR that no final action could be taken on these rule revisions until they had been promulgated by the State.

On May 15, 1991, and August 19, 1991, the IDEM submitted finally adopted rule revisions for those rules subject to the preliminarily adopted rule revisions. The rule revisions were signed by Governor Evan Bayh on May 3, 1991, and were filed with the Secretary of State on May 6, 1991. Under Indiana law, these rule revisions are considered by the State to be promulgated at the time they are filed with the Secretary of State. These rule revisions complete the State promulgation required in the January 2, 1991, NPR.

The January 2, 1991, NPR solicited comments on the proposed SIP (rule) revisions and on USEPA's proposed rulemaking. No comments were received during the public comment period for this proposed rulemaking.

The VOC rule revisions covered by this rulemaking can be thought of as being divided into two subcategories: Those fully adopted by the State prior to the January 2, 1991, NPR; and those adopted after January 2, 1991, but prior to this final rulemaking. The following sections of this final rulemaking address each of these rule revision subcategories.

Rules Fully Adopted by January 2, 1991

These rules were contained in the November 18, 1988, March 9, 1990, and October 23, 1990, State submittals. All rule revisions covered in these submittals amend Volume 326 of the Indiana Administrative Code (326 IAC). A description of the adopted rule revisions is presented on a rule-by-rule basis below. The VOC rule revisions summarized below have been determined to comply with the CAAA and USEPA guidance except as noted for the pneumatic rubber tire manufacturing rule.

326 IAC 1–2–18.5 "Cold Cleaner Degreaser" Definition
326 IAC 1–2–21.5 "Conveyorized Degreaser" Definition
326 IAC 1–2–29.5 "Freeboard Height" Definition
326 IAC 1–2–29.6 "Freeboard Ratio" Definition
326 IAC 1–2–49.5 "Open Top Vapor Degreaser" Definition

Rule 326 IAC 1–2 has been amended by adding these five new definitions related to organic solvent degreasing operations. These definitions clarify Indiana's degreasing regulations in a manner consistent with USEPA policy.

326 IAC 1–2–48 "Nonphotochemically Reactive Hydrocarbon" Definition

This definition was amended to include four new compounds considered by the USEPA to be negligibly photochemically reactive. The definition has also been amended to state that compliance calculations for coatings with VOC concentration units expressed as "pounds VOC per gallon of coating (less water)" should treat nonphotochemically reactive hydrocarbons as water for purposes of calculating the "less water" portion of the coating composition.

326 IAC 1–2–90 "Volatile Organic Compound (VOC)" Definition

This rule has been amended to define "VOC" as any organic material which participates in atmospheric photochemical reactions, that is any organic compound other than those nonphotochemically reactive compounds listed in 326 IAC 1–2–48. VOC coating contents or emission levels are to be measured using procedures given in 326 IAC 8–1–4 (testing procedures).

326 IAC 8–1–0.5 "Coating" Definition

"Coating" is defined to be the application of protective, functional, or decorative films.

326 IAC 8–1–2 Compliance Methods

This rule has been amended to incorporate USEPA's December 1988 "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light Duty Truck Topcoat Operations" (EPA–450/3–88–018). The rule has also been amended to require equivalency calculations to be performed on a coating solids basis. A procedure for calculating the overall capture system and control device efficiency required to comply with surface coating limits has been specified. Use of USEPA's topcoat protocol is required when demonstrating compliance with the equivalent emission limit for automobile and light duty truck topcoating operations.

326 IAC 8–1–4 Testing Procedures

USEPA-approved test methods have been added to this rule to address the following topics: (1) Testing coatings to determine their compliance with the content and emission limits contained in 326 IAC 8 (Article 8); (2) determining the VOC emissions from gasoline vapor recovery systems; and (3) determining the VOC emissions from solvent degreasing operations. The rule has been amended to require sources applying coatings to document that the coating manufacturers used acceptable test methods to determine the VOC contents and percent solids of coatings supplied to the sources.

326 IAC 8–1–4(1) has been added to the rule to allow the IDEM or the USEPA to verify any test results. In the event of any inconsistency between a source's test results and those obtained by the IDEM or the USEPA, IDEM's or USEPA's test results take precedence over the source's test results. The use of equivalent test procedures will be allowed provided they are addressed in site-specific SIP revisions submitted to and approved by the USEPA. It should be noted that the underlying SIP requirements remain in effect until they are changed by final USEPA rulemaking actions.

326 IAC 8–2–5 Paper Coating Operations

This rule has been revised to extend the applicability of paper coating regulations to saturation processes and coating of plastic and metal foils. The rule has also been revised to modify a previous exemption given to single pieces of equipment which conduct rotogravure or flexographic printing operations in line with other surface coating operations. The rule now specifies that only single pieces of equipment that meet the emission limitations given in 326 IAC 8–5–5 (Graphic Arts Operations) may be exempted from the paper coating emission limits.

326 IAC 8–2–9 Miscellaneous Metal Coating Operations

This rule has been revised to eliminate exemptions for maintenance coating of production equipment, preparation and application of adhesives, application of lubricants, and chromiun plating of plastics effective on July 1, 1991.

326 IAC 8–2–11 Fabric and Vinyl Coating

This rule has been revised to: (1) Extend the applicability of fabric coating regulations to saturation operations; (2) extend the applicability of vinyl coating regulations to the application of functional coatings; and (3) specify that organosol and plastisol use cannot be used to bubble emissions from vinyl printing and topcoating.

326 IAC 8–3–1 Organic Solvent Degreasing Operations—Applicability

The applicability criteria for organic solvent degreaser emission control has been changed from degreasers at plants with the potential to emit 100 tons of VOC per year or more to: (1) Cold cleaner degreasers without remote solvent reservoirs; (2) open top vapor degreasers with an air to vapor interface area of one square meter or greater; and (3) conveyorized degreasers with an air to solvent interface area of two square meters or more regardless of the VOC emission level of a facility. Sources subject to these new criteria must comply with the degreasing requirements by July 1, 1991.

326 IAC 8–4–8 Leaks from Petroleum Refineries–Monitoring Reports

Exemptions from monitoring requirements in 326 IAC 8–4–8 have been deleted for inaccessible valves and, after July 1, 1991, for components in lines carrying gases composed of 90 percent methane and/or ethane. Commencing on July 1, 1991, components which are located where monitoring is hazardous shall be monitored when conditions allow these components to be monitored safely. USEPA Reference Method 21 has replaced the method described in the petroleum refinery Control Technology Guideline (CTG) (the method previously included in Indiana's rules) for monitoring for leaks.

326 IAC 8–5–3 Synthesized Pharmaceutical Manufacturing Operations

The VOC emission control requirement for air dryers and production equipment exhaust systems at synthesized pharmaceutical manufacturing facilities with VOC emission levels of 150 kilograms per day or greater has been increased from 85 percent to 90 percent effective July 1, 1991.

326 IAC 8–5–5 Graphic Arts Operations

This rule has been amended as follows: (1) 326 IAC 8–5–5(b)(4) now specifies an alternative compliance method VOC emission limit of 0.5 pounds VOC per pound of ink; (2) 326 IAC 8–5–5(d) (reviewed in the January 2, 1991, NPR as 326 IAC 8–5–5(e)) now specifies the following emission control requirements: (i) 75 percent for publication rotogravures; (ii) 65 percent for packaging rotogravures; and (iii) 60 percent for flexographic printing; and (3) 326 IAC 8–5–5(c) (revised in the January 2, 1991, NPR as 326 IAC 8–5–5–(d)) now requires compliance with 326 IAC 8–5–5(e) by July 1, 1991.

Equivalent and Alternative Methods

Rules referring to the use of equivalent test methods and alternative emission control techniques have been amended to require the submittal of these equivalent test methods and alternative control techniques to the USEPA as SIP revisions. Indiana's language is approvable because it acknowledges that these equivalent test methods and alternative control techniques are not part of the federally approved SIP until they are specifically approved by the USEPA as SIP revisions. The USEPA is adding language to its approval in part 52 of the CFR clarifying that USEPA must approve any such proposed revisions before they are effective in altering the federally enforceable SIP.

Rules Adopted After January 2, 1991

The following rule revisions were reported in their finally adopted forms in the May 15, 1991, and August 19, 1991, submittals. Unless noted otherwise the finally adopted rule revisions were identical to the preliminarily adopted versions reviewed in the January 2, 1991, NPR. The rule revisions summarized below have been determined to comply with USEPA RACT and related regulations and policy.

326 IAC 1–2–14 "Coating Line" Definition

The definition of "coating line" has been modified to mean all operations and equipment which are used to apply, convey, and dry a surface coating. This would include, but not be limited to, one or more of the following components: (1) Spray booths; (2) flow coaters; (3) flash-off areas; (4) air dryers; and (5) ovens. Any operation utilizing one or more of the listed equipment types would qualify as a coating line.

326 IAC 8–1–1 Applicability of Rules

This rule has been revised to require that facilities once subject to the control requirements of any of the VOC rules will remain subject to such rules even if emissions are subsequently reduced below the rules' applicability levels. A facility may be exempted from the applicable rules if: (1) the facility has an enforceable permit issued under 326 IAC 2 or a federally-approved SIP revision that permanently restricts one or more source activities resulting in the lowering of actual VOC emissions before add-on controls to a level below 15 pounds per day (expiration of the permit results in the expiration of the exemption from rule applicability); (2) the permit or SIP revision referenced in (1) also requires the facility owner or operator to keep records demonstrating compliance with the permit or SIP restrictions; and (3) all permits, renewed permits, and other related documents are submitted to the USEPA as SIP revisions. Indiana's language is approvable because the State acknowledges that proposed SIP revisions, including proposed SIP revisions covering changes in rule applicability, are not part of the federally approved SIP until they are specifically approved by the USEPA as SIP revisions. Consistent with the State's interpretation of its rules, the USEPA is adding language to its approval in part 52 of the CFR clarifying that USEPA must approve any such proposed revisions before they are effective in altering the federally enforceable SIP.

326 IAC 8–1–2 Compliance Methods

The term "thermal or catalytic incineration" has been added to 326 IAC 8–1–2(a)(2) to clarify their use as a means of compliance with the requirements of Article 8 (326 IAC 8). The rule has also been revised to clarify requirements and to specify additional recordkeeping requirements.

Subsequent to the January 2, 1991, NPR, Indiana added a new clause to this rule. Subsection 8–1–2(a)(8) has been added to the rule to state that the requirements of Article 8 may be met through the use of an emission control device specifically allowed under provisions of any rule in this Article to meet the emission limitations specified in the rule. This clause was added to clarify that there are other specific emission control requirements (other than those listed in 326 IAC 8–1–2) within rules in Article 8. This additional clause is judged to be nonsubstantive and needed only for the purpose of preventing interference between 326 IAC 8–1–2 and other rules in 326 IAC 8. As such, this rule revision does not require additional proposed rulemaking on the part of the USEPA.

326 IAC 8–1–4 Testing Procedures

Revisions to 326 IAC 8–1–4 (h) and (i) state that the appropriate test methods shall be used for the source categories listed in (h) and (i) (synthesized pharmaceutical manufacturing, pneumatic rubber tire manufacturing, graphic arts, and external floating roof tanks). USEPA-recommended test procedures are referenced. These rule revisions were addressed in the January 2, 1991, NPR.

A minor change in 326 IAC 8–1–4(a)(4)(C) was made by the State after the January 2, 1991, NPR publication. An erroneous reference to an USEPA guideline was corrected. An appropriate reference to EPA 340/1–88–004, "A Guideline for Graphic Arts Calculations", has replaced the erroneous reference. This revision is inconsequential and does not trigger the need for additional rulemaking.

326 IAC 8–2–1 Applicability

This rule has been modified to state that, for sources listed in 326 IAC 8–2–2 through 326 IAC 8–2–13, VOC emission exemption cutoff levels shall be 15 pounds/day actual emissions based on emission levels before add-on controls.

326 IAC 8–3–5 Cold Cleaner Operations
326 IAC 8–3–6 Open Top Vapor Degreaser Operations
326 IAC 8–3–7 Conveyorized Degreaser Operations

Language has been added to these rules to make them consistent with USEPA's RACT requirements. The revisions include both improved emission control requirements and the requirement that the authorization of any equivalent emission controls must be accompanied by the submittal of the equivalent emission control requirements to the USEPA as SIP revisions. The following specific changes have been made to these rules: (1) 326 IAC 8–3–5(a)(5) has been modified to require the use of one of several possible control measures when solvents are heated to temperatures over 48.9 degrees Centigrade (120 degrees Fahrenheit) (possible controls include the use of a freeboard that attains a freeboard ratio of 0.75 or greater, the use of a water cover when the solvents used are insoluble in and heavier than water, or the use of other control systems demonstrated to provide equivalent emissions control and submitted to the USEPA as SIP revisions); (2) 326 IAC 8–3–6(a)(4) has been modified to require, as one control option, the use of a freeboard with a freeboard ratio of 0.75 or greater and a powered cover for an open top vapor degreaser with an opening exceeding one square meter in area; (3) 326 IAC 8–3–6(a)(4)(E) now contains the requirement that all acceptable equivalent emission control systems shall be addressed in requested SIP revisions submitted to the USEPA; (4) 326 IAC 8–3–6(b)(5) has been revised to prohibit the loading of an open top degreaser to the point where the vapor level would drop more than 10 centimeters (4 inches) when the workload is removed; (5) 326 IAC 8–3–7(a)(1) has been revised to require the closure of conveyorized degreaser downtime covers when the degreasers are not in use; (6) 326 IAC 8–3–7(a)(2) has been revised so that the requirement for the use of various switches is not conditioned on the heating of a solvent to its boiling point; and (7) 326 IAC 8–3–7(a)(6)(C) now contains the requirement that all acceptable equivalent (alternative) emissions control systems shall be addressed in SIP revision submittals to the USEPA. It should be noted that the underlying SIP requirements remain in effect until changed by final USEPA rulemaking actions.

326 IAC 8–4–8 Leaks From Petroleum Refineries; Monitoring; Reports

The rule revisions adopted for this rule are as follows: (1) 326 IAC 8–4–8(p) has been revised to specify that recordkeeping and reporting programs varying from the guidelines in subsections specified in 8–4–8(b) through 8–4–8(o) shall be submitted to the USEPA as SIP revisions; (2) 326 IAC 8–4–8–(q)(1) has been revised to state that the Commissioner may require the operator of a refinery to reschedule turnaround based on the number and severity of tagged leaks awaiting repair at the times of turnarounds; and (3) 326 IAC 8–4–8(q)(2) has been revised to state that, except for safety pressure relief valves, no owner or operator of a petroleum refinery shall install or operate a valve at the end of a pipe or line containing organic compounds unless the pipe or line is sealed with a second valve, blind flange, plug, or cap.

326 IAC 8–5–4 Pneumatic Rubber Tire Manufacturing

In the January 2, 1991, NPR, responding to the State's withdrawal of revisions to this rule, the USEPA stated that it would take no action on this rule. The revised rules adopted by the State and submitted on May 15, 1991, contained finally adopted regulations for pneumatic rubber tire manufacturing which significantly differ from rule revisions previously submitted and discussed in the NPR. Because the rule has been substantially revised and because the USEPA proposed to take no action on revisions to this rule, the revisions to this rule submitted on May 15, 1991, will be addressed in a separate rulemaking action.

326 IAC 8–5–5 Graphic Arts Operations

This rule has been revised to drop a previously unacceptable subsection, 326 IAC 8–5–5(f), which allowed an automatic one-year compliance date extension for this source category. The deletion of this subsection was proposed for approval in the January 2, 1991, NPR. The finally adopted rule revision matches the preliminarily adopted revision addressed in the NPR.

Conclusion

All of the rule revisions discussed above, with the exception of the rule revisions for pneumatic rubber tire manufacturing, were found to comply with the Clean Air Act, as amended, and with USEPA RACT guidelines and, therefore, are finally approvable. These rule revisions eliminate all of the rule deficiencies addressed in the June 15, 1988, letter from the USEPA to the IDEM except the lack of capture efficiency test methods. Moreover, the revisions meet the requirement under section 182(a)(2)(A) of the amended Act that States correct their SIPs consistent with guidance issued by the Administrator before the date of enactment of the amended Act.

Response to Public Comments and Final Rulemaking Action

No public comments were received in response to USEPA's January 2, 1991, proposed rule. For the reasons cited above, USEPA approves the incorporation of the following Indiana regulations into the Indiana State Implementation Plan for ozone. These rules were adopted as part of title 326 of the Indiana Administrative Code (326 IAC) by the Air Pollution Control Board and published in the Indiana Register and effective as indicated below.

Published November 1, 1988; Effective October 23, 1988:
326 IAC 8–1–0.5 Coating Definition
326 IAC 8–2–11 Fabric and Vinyl Coating
Published March 1, 1990; Effective February 15, 1990:
326 IAC 1–2–48 Non-Photochemically Reactive Hydrocarbon Defined
326 IAC 8–2–5 Paper Coating Operations
Published June 1, 1990; Effective May 18, 1990:
326 IAC 1–2–18.5 Cold Cleaner Degreaser Defined
326 IAC 1–2–21.5 Conveyorized Degreaser Defined
326 IAC 1–2–29.5 Freeboard Height Defined
326 IAC 1–2–29.6 Freeboard Ratio Defined
326 IAC 1–2–49.5 Open Top Vapor Degreaser Defined
326 IAC 8–2–9 Miscellaneous Metal Coating Operations
326 IAC 8–3–1 Organic Solvent Degreasing Operations

326 IAC 8–5–3 Synthesized Pharmaceutical Manufacturing Operations
326 IAC 8–5–5 Graphic Arts Operations
Published July 1, 1990; Effective June 8, 1990:
326 IAC 8–1–2 Compliance Methods
326 IAC 1–2–90 Volatile Organic Compound (VOC) Definition
326 IAC 8–1–4 Testing Procedures
Published June 1, 1991; Effective June 5, 1991:
326 IAC 1–2–14 Coating Line Definition
326 IAC 8–1–1 Applicability of Rule
326 IAC 8–1–2 Compliance Methods
326 IAC 8–1–4 Testing Procedures
326 IAC 8–2–1 Applicability
326 IAC 8–3–5 Cold Cleaner Degreaser Operation and Control
326 IAC 8–3–6 Open Top Vapor Degreaser Operation and Control Requirements
326 IAC 8–3–7 Conveyorized Degreaser Operation and Control
326 IAC 8–4–8 Leaks from Petroleum Refineries; Monitoring; Reports
326 IAC 8–5–5 Graphic Arts Operations.

No action is taken on 326 IAC 8–5–4 Pneumatic Rubber Tire Manufacturing.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 5, 1992. Filing petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. 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, Environmental protection, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

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

Dated: December 31, 1991.

Valdas V. Adamkus,

Regional Administrator.

For the reasons set out in the Preamble, chapter I, title 40, Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7642.

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(87) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(87) On October 23, 1990, and August 19, 1991, the Indiana Department of Environmental Management submitted regulations adopted by the Indiana Air Pollution Control Board as part of title 326 of the Indiana Administrative Code and intended incorporation into the Indiana ozone plan as part of the stationary source control strategy.

(i) Incorporation by reference.

(A) The following volatile organic compound rules adopted by the Indiana Air Pollution Control Board as part of title 326 of the Indiana Administrative Code (326 IAC) and intended to partially satisfy the requirements of the Clean Air Act.

(*1*) Effective October 23, 1988: 326 IAC 8–1–.05 Coating Definition, 326 IAC 8–2–11 Fabric and Vinyl Coating.

(*2*) Effective February 15, 1990: 326 IAC 1–2–48 Non-Photochemically Reactive Hydrocarbon Defined; 326 IAC 8–2–5 Paper Coating Operations.

(*3*) Effective May 18, 1990: 326 IAC 1–2–18.5 Cold Cleaner Degreaser Defined; 326 IAC 1–2–21.5 Conveyorized Degreaser Defined; 326 IAC 1–2–29.5 Freeboard Height Defined; 326 IAC 1–2–29.6 Freeboard Ratio Defined; 326 IAC 1–2–49.5 Open Top Vapor Degreaser Defined; 326 IAC 8–2–9 Miscellaneous Metal Coating Operations; 326 IAC 8–3–1 Organic Solvent Degreasing Operations; 326 IAC 8–5–3 Synthesized Pharmaceutical Manufacturing Operations; 326 IAC 8–5–5 Graphic Arts Operations.

(*4*) Effective June 8, 1990: 326 IAC 8–1–2 Compliance Methods; 326 IAC 1–2–90 Volatile Organic Compound (VOC) Definition; 326 IAC 8–1–4 Testing Procedures.

(*5*) Effective June 5, 1991: 326 IAC 1–2–14 Coating Line Definition; 326 IAC 8–1–1 Applicability of Rule; 326 IAC 8–1–2 Compliance Methods; 326 IAC 8–1–4 Testing Procedures; 326 IAC 8–2–1 Applicability; 326 IAC 8–3–5 Cold Cleaner Degreaser Operation and Control; 326 IAC 8–3–6 Open Top Vapor Degreaser Operation and Control Requirements; 326 IAC 8–3–7 Conveyorized Degreaser Operation and Control; 326 IAC 8–4–8 Leaks from Petroleum Refineries, Monitoring, Reports; 326 IAC 8–5–5 Graphic Arts Operations.

3. Section 52.777 is amended by adding paragraph (c)(2) to read as follows:

§ 52.777 Control strategy: photochemical oxidants (hydrocarbons).

* * * * *

(c) * * *

(*2*) The stationary source volatile organic control measures submitted by the State on October 23, 1990, and August 19, 1991, are approved as described in 40 CFR 52.770(c)(87) with the exception of 326 IAC 8–5–4 Pneumatic Rubber Tire Manufacturing, on which USEPA has taken no action. It should be noted that although the State's control measures provide that equivalent test methods, alternative emission controls, and revisions in rule applicability must be submitted to the USEPA as proposed revisions to the State Implementation Plan (SIP), such proposed SIP revisions are not part of the SIP unless and until they are approved as such by the USEPA.

* * * * *

[FR Doc. 92–5202 Filed 3–5–92; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Parts 148, 264, 265, and 268

[FRL–4112–2]

Land Disposal Restrictions for Third Third Scheduled Wastes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical amendments.

SUMMARY: On June 1, 1990, EPA published regulations promulgating congressionally-mandated prohibitions on land disposal of certain hazardous wastes. This notice corrects errors and clarifies the language in the preamble and regulations of the June 1, 1990 final rule.

EFFECTIVE DATE: This rule is effective on March 6, 1992.

ADDRESSES: The RCRA docket is open from 9:30 to 3:30, Monday through Friday, excluding Federal holidays, and is located at the following address: EPA RCRA Docket (OS–305), room M–2427, 401 M Street SW., Washington, DC 20460. The public must make an appointment to review docket materials

by calling (202) 260–9327. Refer to Docket number F–92–13C2–FFFFF when making appointments to review any background documentation for this correction. The public may copy a maximum of 100 pages of material from any one regulatory docket at no cost; additional copies cost $0.20 per page.

FOR FURTHER INFORMATION CONTACT: For general information contact the RCRA Hotline at (800) 424–9346 (toll free) or (703) 920–9810 in the Washington, DC metropolitan area. For technical information contact the Waste Treatment Branch, Office of Solid Waste, 401 M Street SW., Washington, DC 20460, (703) 308–8434.

SUPPLEMENTARY INFORMATION:

Outline

I. Reasons and Basis for Today's Amendment
II. Summary of Corrections to the Third Third Final Rule
A. Section 148.1 & .10
B. Sections 264.13 & 265.13
C. Section 268.3
D. Section 268.41
E. Section 268.42
III. Rationale for Immediate Effective Date
IV. Regulatory Impact Analysis
V. List of Subjects in Parts 148, 264, 265, and 268

I. Reasons and Basis for Today's Amendment

It has recently come to the attention of the Agency in regard to the so-called third third rule, which established land disposal prohibitions and treatment standards for characteristic wastes and for listed wastes in the final third of the section 3004(g) schedule (55 FR 22520–720, June 1, 1990), that in some cases the regulatory language was at odds with the intent of the preamble to the final regulation, or failed to express those intentions. This notice corrects those errors, and also restores language inadvertently deleted from the third third rule by an unrelated Federal Register notice.

II. Summary of Corrections to the Third Third Final Rule

An explanation is provided below for each of the corrections made in today's rule.

A. Section 148.1 & .10

In the preamble to the final regulation, EPA discussed at length its reasons for applying land disposal prohibitions at the point of disposal for characteristic wastes that are injected into nonhazardous Class I deep wells (wells in which wastewater is injected below the lowermost geologic formation containing an underground source of drinking water). 55 FR 22658–59; 22645, col. 3. In essence, this means that if a characteristic waste no longer exhibits a characteristic when it is injected into such a deep well, the disposal is not prohibited. *Id.* at 22658–59.

In codifying this principle, however, EPA mistakenly indicated that it applied to characteristic wastes injected into either a nonhazardous or hazardous Class I deep well. See § 148.1(d)(1), 55 FR 22683. The provision should apply only to injection into nonhazardous Class I deep wells because hazardous wells would not be subject to any regulatory disruption if land disposal prohibitions (including the dilution prohibition) for characteristic wastes are applied to them. This is because hazardous Class I deep wells are already subject to such prohibitions by virtue of receiving listed and other hazardous wastes. EPA is consequently correcting § 148.1(d)(1) by removing the reference to hazardous Class I deep wells.

In the technical amendment to the third third, published on January 31, 1991 (55 FR 3864), Table A in 40 CFR 148.10 was incorrectly transposed and several constituents were inadvertently omitted. EPA is correcting Table A in § 148.10 by adding the omitted constituents.

B. Sections 264.13 & 265.13

In the 1986 rulemaking establishing the framework provisions for the land disposal restrictions program, EPA amended the waste analysis plan provisions contained in §§ 264.13(a) and 265.13(a) to require that any waste analysis done by subtitle C facilities must be adequate to comply with the provisions of the land disposal restrictions program in the part 268 regulations. 51 FR at 40637, 638 (Nov. 7, 1986). As amended, the provision consequently read in pertinent part: "(a)(1) Before an owner or operator treats, stores, or disposes of any hazardous wastes * * * he must obtain a detailed chemical and physical analysis of a representative sample of the wastes * * * At a minimum, the analysis must contain all the information which must be known to treat, store, or dispose of the waste in accordance with this part and part 268 of this chapter * * *"

In an August 14, 1989 regulation related to closure requirements, EPA amended the first sentence of §§ 264.13(a)(1) and 265.13(a)(1). The Office of the Federal Register misinterpreted the codification instructions, however, and deleted the second sentence of these provisions. EPA is restoring the mistakenly deleted language in this technical correction.

C. Section 268.3

EPA established treatment standards for D003 reactive cyanide wastes of 590 mg/kg (total cyanide) and 30 mg/kg (amenable cyanide) for nonwastewaters, and 0.86 mg/l (amenable cyanide) for wastewaters. § 268.43(a) Table CCW; 55 FR 22701. At issue here is whether these treatment standards can be achieved by dilution.

EPA stated expressly that these treatment standards had to be achieved through modes of treatment other than dilution: "EPA also notes that it considers * * * reactive cyanide wastes * * * to be toxic characteristic wastes * * * Reactive cyanide * * * wastes obviously contain toxic constituents. Thus, dilution would not be an appropriate method of treatment for [such wastes]." 55 FR 22666, col. 1. See also 54 FR at 48426, col. 2 (Nov. 22, 1989) (proposing that D003 reactive cyanide wastes be subject to the dilution prohibition).

In codifying this regulation, however, EPA inadvertently omitted this prohibition on dilution for reactive cyanide wastewaters that are treated in treatment systems whose ultimate discharges are subject to regulation under the Clean Water Act. The error results from the drafting of § 268.3(b), an exception from the dilution prohibition for characteristic wastes treated in systems whose discharges are subject to Clean Water Act regulation. The exception does not, however, apply to wastes for which "a method has been specified as the treatment standard." § 268.3(b) (final sentence). Since the reactive cyanide standards are levels rather than methods, this limitation on the exclusion would not apply and dilution of D003 reactive cyanide wastewaters would be allowed in Clean Water Act treatment systems. As noted above, this is the opposite result EPA proposed and intended, as stated in the preambles. Therefore, EPA is amending § 268.3(b) to indicate that the treatment standard for reactive cyanide wastes cannot be achieved through dilution as a substitute for adequate treatment under any circumstance, including management in a treatment system whose discharge is subject to the Clean Water Act. As always, the issue of what dilution is impermissible (i.e., serves as a substitute for adequate treatment, see § 268.3(a)) turns on specific facts, and aggregation of different D003 reactive cyanide wastes for centralized treatment that efficiently destroys cyanide is not ordinarily precluded. See, *e.g.*, 55 FR 22666, cols. 1–2; 55 FR 22664.

D. Section 268.41

As part of the third third rule, EPA added language to § 268.41 and .43 indicating that where treatment standards are based on grab sampling, enforcement would also use grab samples. Conversely, where treatment standards are based on composite sampling, so would enforcement. 55 FR 22689, 22701; *see also id.* at 22539. The regulatory language to § 268.41(a), however, suggests that enforcement will invariably be based on grab sampling. EPA is correcting this rule by adding the language already present in § 268.43(a), which states that grab sampling will be used unless noted otherwise in the treatment standard itself. (As an example of how such an instruction is noted, see e.g., standards for U209 to U226, all of which are based on composite samples, as stated in the treatment standard.)

E. Section 268.42

EPA also stated that D003 reactive sulfide wastes remain subject to the dilution prohibition: "EPA also notes that it considers * * * reactive sulfide wastes to be toxic characteristic wastes * * * Reactive * * * sulfide wastes obviously contain toxic constituents. Thus, dilution would not be an appropriate method of treatment for [such waste]." 55 FR 22666, col. 1. (EPA also proposed that reactive sulfide wastes be subject to the dilution prohibition. 54 FR 48426, col. 2 (Nov. 22, 1989).)

EPA specified, as a method of treatment for these wastes, deactivation to remove the characteristic. § 268.42(a) Table 2; 55 FR 22694. As is clear from the discussion in the relevant preambles, EPA did not intend to allow dilution as a substitute for adequate treatment to deactivate reactive sulfide wastes. EPA is consequently adding clarifying language to § 268.42 to confirm that the dilution prohibition applies to reactive sulfide wastes. EPA notes further that because there is a specified method of treatment for these wastes, the exception from the dilution prohibition in § 268.3(b) (for wastes treated in Clean Water Act treatment systems) does not apply.

III. Rationale for Immediate Effective Date

Today's notice does not create any new regulatory requirements; rather, it restates and clarifies requirements already in effect by correcting a number of errors in the June 1, 1990 final rule (55 FR 22520). For these reasons, EPA finds that good cause exists under section 3010(b)(3) of RCRA, 42 U.S.C. 9903(b)(3), to provide for an immediate effective date. In addition, there already was full opportunity to comment on all of these issues during the rulemaking so that further comment is unnecessary. For the same reasons, EPA finds that there is good cause under 5 U.S.C. 553(b)(3) to promulgate today's corrections in final form and that there is good cause under 5 U.S.C. 553(b)(3) to waive the requirement that regulations be published at least 30 days before they become effective. Finally, EPA notes that although it is not withdrawing any existing regulatory language, all of today's revisions operate prospectively.

IV. Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. Due to the nature of this regulation (technical correction), it is not "major"; therefore, no Regulatory Impact Analysis is required.

V. List of Subjects in Parts 148, 264, 265, and 268

Administrative practice and procedure, Confidential business information, Designated facility, Environmental protection, Hazardous materials, Hazardous materials transporting, Hazardous waste, Intergovernmental relations, Labeling, Manifests, Packaging and containers, Recycling, Reportable quantities, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply.

Dated: February 27, 1992.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 148—HAZARDOUS WASTE INJECTION RESTRICTIONS

1. The authority citation for part 148 continues to read as follows:

Authority: Section 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901 et. seq.

2. Section 148.1 is amended by revising paragraph (d) to read as follows:

§ 148.1 Purpose, scope, and applicability.

* * * * *

(d) Wastes that are hazardous only because they exhibit a hazardous characteristic, and which are otherwise prohibited under this part, are not prohibited if the wastes:

(1) Are disposed into a nonhazardous injection well defined under 40 CFR 144.6(a); and

(2) Do not exhibit any prohibited characteristic of hazardous waste identified in subpart C of part 261 at the point of injection.

3. In Section 148.10 Table A is amended by adding entries for "ethyl ether" and "methyl isobutyl ketone" in alphabetical order.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

2. Section 264.13 is amended by revising paragraph (a)(1) to read as follows:

§ 264.13 General waste analysis.

(a)(1) Before an owner or operator treats, stores, or disposes of any hazardous wastes, or nonhazardous wastes if applicable under § 264.113(d), he must obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, the analysis must contain all the information which must be known to treat, store, or dispose of the waste in accordance with this part and part 268 of this chapter.

* * * * *

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6935.

2. Section 265.13 is amended by revising paragraph (a)(1) to read as follows:

§ 265.13 General waste analysis.

(a)(1) Before an owner or operator treats, stores, or disposes of any hazardous wastes, or nonhazardous wastes if applicable under § 265.113(d), he must obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, the analysis must contain all the information which must be known to treat, store, or dispose of the waste in

accordance with this part and part 268 of this chapter.

* * * * *

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

2. Section 268 is amended by revising paragraph (b) to read as follows:

§ 268.3 Dilution prohibited as a substitute for treatment.

* * * * *

(b) Dilution of wastes that are hazardous only because they exhibit a characteristic in a treatment system which treats wastes subsequently discharged to a water of the United States pursuant to a permit issued under section 402 of the Clean Water Act (CWA) or which treats wastes for the purposes of pretreatment requirements under section 307 of the CWA is not impermissible dilution for purposes of this section unless a method has been specified as the treatment standard in § 268.42, or unless the waste is a D003 reactive cyanide wastewater or nonwastewater.

3. Section 268.41 is amended by revising paragraph (a) to read as follows:

§ 268.41 Treatment standards expressed as concentration in waste extract.

(a) Table CCWE identifies the restricted wastes and the concentrations of their associated constituents which may not be exceeded by the extract of a waste or waste treatment residual developed using the test method in Appendix I of this part of the allowable land disposal of such wastes, with the exception of wastes D004, D008, D031, K084, K101, K102, P010, P011, P012, P036, and U136 and the concentrations of their associated constituents which may not be exceeded by the extract of a waste or waste treatment residual developed using the test methods in appendix II of 40 CFR part 261 for the allowable land disposal of such wastes. (Appendix II of this part provides Agency guidance on treatment methods that have been shown to achieve the Table CCWE levels for the respective wastes. Appendix II of this part is not a regulatory requirement but is provided to assist generators and owners/operators in their selection of appropriate treatment methods.) Compliance with these concentrations is required based upon grab samples, unless otherwise noted in the following Table CCW.

* * * * *

4. In § 268.42 Table 2 is amended by revising, under waste code D003, the entry for "Reactive Sulfides based on 261.23(a)(5)." to read as follows:

§ 268.42 Treatment standards expressed as specified technologies.

* * * * *

TABLE 2.—TECHNOLOGY-BASED STANDARDS BY RCRA WASTECODE

Waste code	See also	Waste descriptions and/or treatment subcategory	CAS No. for regulated hazardous constituents	Technology code	
				Wastewaters	Nonwastewaters
*	*	*	*	*	*
D003	.....	Reactive Sulfides based on 261.23(a)(5).	NA	DEACT but not including dilution as a substitute for adequate treatment.	DEACT but not including dilution as a substitute for adequate treatment.
*	*	*	*	*	*

[FR Doc. 92-5259 Filed 3-5-92; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 271

[FRL-4111-3]

Rhode Island; Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Rhode Island has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Rhode Island's application and has made a decision, subject to public review and comment, that Rhode Island's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Rhode Island's hazardous waste program revision. Rhode Island's application for program revision is available for public review and comment.

DATES: Final authorization for Rhode Island shall be effective May 5, 1992, unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Rhode Island's program revision application must be received by the close of business April 6, 1992.

ADDRESSES: Copies of Rhode Island's program revision application are available for inspection and copying, 8:30 a.m.–4 p.m. Monday–Friday at the following addresses: Rhode Island Department of Environmental Management, Division of Air & Hazardous Materials, 291 Promenade Street, Providence, Rhode Island 02908–5767, Phone: 401/277–2797; U.S. EPA Region I Library, One Congress Street, 11th Floor, Boston, Massachusetts 02203, Phone: 617/565–3300. Written comments should be sent to Frank Battaglia, at the address below.

FOR FURTHER INFORMATION CONTACT: Frank Battaglia, MA & RI Waste Regulation Section, U.S. EPA Region I, HRR–CAN3, JFK Federal Building, Boston, Massachusetts 02203, Phone: 617/573–9643.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–266, 268, 124 and 270.

B. Rhode Island

Rhode Island initially received final authorization on January 31, 1986, (51 FR 3780, January 30, 1986) to implement its base hazardous waste program. Rhode

Island received final authorization for revisions to its program on March 26, 1990, (55 FR 9128, March 12, 1990) to implement the program revisions listed in the **Federal Register** notice published March 12, 1990. On December 12, 1989, Rhode Island submitted, for EPA's review, a draft program revision application for federal requirements promulgated from July 1, 1985 to June 30, 1986, except that approval was not requested for revisions which are required as a result of the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA"). On March 25, 1991, Rhode Island submitted the final program revision application which responded to all of EPA's prior review comments. Today, Rhode Island is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Rhode Island's application, and has made an immediate final decision that Rhode Island's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the modifications to the Rhode Island program subject to further review based on adverse public comment. The public may submit written comments on EPA's immediate final decision up until April 6, 1992. Copies of Rhode Island's application for program revision are available for inspection and copying at the locations indicated in the "**ADDRESSES**" section of this notice.

Approval of Rhode Island's program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

The Rhode Island program revision application is based on changes to State Regulations which were intended to make them equivalent to the analogous Federal Regulations which had been promulgated during the July 1, 1985 to June 30, 1986 period, in 40 CFR parts 260, 261, 264, 265 and 270. These changes did not include any provisions which were required as a result of the Hazardous and Solid Waste Amendments 1984 (HSWA). Specific provisions which are included in the Rhode Island program revision authorization made today are listed in Table 1 below.

TABLE 1.—PROVISIONS COVERED BY THIS PROGRAM REVISION AUTHORIZATION

Federal requirement	State authority
Financial Responsibility: Settlement Agreement 51 FR 16443–16459, May 2, 1986.	Rule 3.100, 9.00, 9.16, 10.00, 10.02, 11.00, 11.01D, 7.01E, 9.17, 8.04R, 8.04T, 7.06A, 7.05C.
Listing of Spent Pickle Liquor (K062) 51 FR 19320, May 28, 1986 as amended September 22, 1986 (51 FR 33612).	Rule 3.25.

Rhode Island agrees to review all State hazardous waste permits which have been issued under State law prior to the effective date of this authorization. Rhode Island agrees to then modify, revoke and reissue, or reissue such permits as necessary to require compliance with the amended State program when the permit expires. The modification, revocation and reissuance, or reissuance will be scheduled in the State Grant Workplan, if necessary.

Rhode Island is not seeking authorization to operate on Indian lands.

C. Decision

I conclude that Rhode Island's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Rhode Island is granted final authorization to operate its hazardous waste program as revised.

Rhode Island now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program described in its revised program application and previously approved authorization, subject to the limitations of the HSWA. Rhode Island also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under section 3008, 3013, and 7003 of RCRA.

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Rhode Island's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 21, 1992.

Paul G. Keough,

Acting Regional Administrator.

[FR Doc. 92–4893 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–9 and 301–11

[FTR Amendment 25]

RIN 3090–AE47

Federal Travel Regulation; Travel Expenses of Federal Employees with Disabilities

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR) to allow payment of certain additional travel expenses incurred by a Federal employee as a result of a disability. This change is intended to provide each employee equal opportunity to perform official business travel by reimbursing the employee for certain additional travel expenses incurred to accommodate the employee's disability.

EFFECTIVE DATE: This final rule is effective March 6, 1992, and applies for travel (including travel incident to a change of official station) performed on or after March 6, 1992.

FOR FURTHER INFORMATION CONTACT: Robert A. Clauson, Transportation Management Division (FBX), Washington, DC 20406, telephone FTS 365–5253 or commercial (703) 305–5253.

SUPPLEMENTARY INFORMATION: This final rule provides regulatory authority to reimburse certain additional travel expenses necessarily incurred by an employee as a result of the employee's disability, which had previously been paid based on numerous Comptroller General decisions. The following expenses are reimbursable: Travel and transportation of an attendant to accompany the employee with a disability; cost of specialized transportation to, from, and/or at the temporary duty location; cost of specialized services provided by a commercial carrier to accommodate the employee's disability; cost of baggage handling at a hotel or terminal (e.g., porter, redcap, skycap, etc.) incurred as a direct result of the employee's disability; and cost of transporting or renting a wheelchair.

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

List of Subjects in 41 CFR Parts 301–9 and 301–11

Government employees, Travel, Travel allowances, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR parts 301–9 and 301–11 are amended as follows:

PART 301–9—MISCELLANEOUS EXPENSES

1. The authority citation for part 301–9 continues to read as follows:

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

2. Part 301–9 is amended by redesignating §§ 301–9.2 and 301–9.3 as §§ 301–9.3 and 301–9.4, respectively, and by adding new § 301–9.2, to read as follows:

§ 301–9.2 Additional travel expenses incurred by an employee with a disability.

(a) *Policy, applicability, and general rules*—(1) *Policy.* In accordance with the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 *et seq.* these provisions are intended to accommodate an employee with a disability by providing for reimbursement of necessary additional travel expenses incurred in the performance of official travel.

(2) *Applicability.* This section applies to an employee with a disability as defined in paragraph (b) of this section.

(3) *General rule.* Payment is authorized for the additional travel expenses listed in paragraph (c) of this section which are necessarily incurred by an employee with a disability in the performance of official travel.

(b) *Definitions.* For purposes of this section, the following terms have the meaning indicated:

(1) *Employee with a disability.* The term "employee with a disability" means an employee who has a disability as defined in paragraph (b)(2) of this section, and is otherwise generally covered under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 *et seq.*.

(2) *Disability.* The term "disability", with respect to an employee, means:

(i) Having a physical or mental impairment that substantially limits one or more major life activities;

(ii) Having a record of such an impairment; or

(iii) Being regarded as having such an impairment.

(3) *Physical or mental impairment*—(i) The term "physical or mental impairment" means:

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardio-vascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or

(B) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(ii) The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and orthopedic, visual, speech, and hearing impairments.

(4) *Major life activities.* The term "major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(5) *Substantially limits.* The term "substantially limits" means the employee is unable to perform a major life activity that the average person in the general population can perform; or is significantly restricted as to the condition, manner, or duration under which he/she can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.

(6) *Has a record of such an impairment.* The term "has a record of such an impairment" means the employee has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.

(7) *Is regarded as having such an impairment.* The term "is regarded as having such an impairment" means the employee:

(i) Has a physical or mental impairment that does not substantially limit major life activities but the impairment is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (b)(3) of this section but is treated by the employing agency as having a substantially limiting impairment.

(c) *Allowable expenses.* The following expenses are allowable additional travel expenses payable to an employee with a disability:

(1) Transportation and subsistence expenses authorized under this chapter that are incurred by an attendant accompanying the employee, whether the attendant is or is not a member of the employee's immediate family, when the employee requires the assistance of an attendant;

(2) Cost of specialized transportation for the employee to, from, and/or at the temporary duty location;

(3) Cost of specialized services provided by a commercial carrier necessary to accommodate the employee's disability;

(4) Costs incurred as a direct result of the employee's disability for baggage handling in connection with public transportation or at lodging facilities; and

(5) Cost of renting and/or transporting a wheelchair.

PART 301–11—CLAIMS FOR REIMBURSEMENT

3. The authority citation for part 301–11 continues to read as follows:

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

4. Section 301–11.6 is amended by removing the reference "§ 301–9.1(a)" in paragraph (b)(19), and adding in its place the references "§§ 301–9.1 (a) and (e)"; by redesignating paragraphs (b)(23) through (27) as paragraphs (b)(24) through (28), respectively; by removing the reference "§ 301–9.3" in the paragraph redesignated (b)(24), and adding in its place the reference "§ 301–9.4"; and by adding new paragraph (b)(23) to read as follows:

§ 301–11.6 Administrative approvals.

* * * * *

(b) * * *

(23) Additional travel expenses incurred by an employee with a disability. (See § 301–9.2.)

* * * * *

Dated: January 24, 1992.

Richard G. Austin,

Administrator of General Services.

[FR Doc. 92–5262 Filed 3–5–92; 8:45 am]

BILLING CODE 6820–24–F

Proposed Rules

Federal Register
Vol. 57, No. 45
Friday, March 6, 1992

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 61

RIN 3150-AE00

Licensing Requirements for Land Disposal of Radioactive Wastes

AGENCY: Nucelar Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) proposes to make four specific changes to its regulations containing licensing requirements for low-level radioactive waste (LLW) disposal facilities. These changes include (1) clarifying that 10 CFR part 61 applies to above-ground disposal facilities; (2) replacing the phrase "quality control program" in 61.12(j) with the phrase "quality assurance program," tailored to LLW disposal; (3) updating the Paperwork Reduction Act Statement in § 61.8; and (4) identifying the correct NRC recipient of copies of the licensee's annual reports. The Commission has determined that these changes are needed to correct imprecise wording administrative inconsistencies in the current regulations. These amendments will serve to incorporate established and documented NRC staff positions into the regulation yet will not result in extensive changes to actual text. The proposed changes are intended to simplify LLW disposal facility licensing interactions for NRC, the NRC Agreement States, and potential applicants for LLW disposal licenses.

DATE: Comment period expires April 6, 1992. Comments received after that date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Submit written comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. Federal workdays.

Copies of the regulatory analysis, the environmental assessment, and the comments received on the rule may be examined at: The NRC Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Janet Lambert, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3857.

SUPPLEMENTARY INFORMATION:

Background

The NRC issued its "Licensing Requirements for Land Disposal of Radioactive Waste," 10 CFR part 61, (hereafter referred to as "part 61" or "the regulation") in December 1982. Part 61 sets out licensing procedures and performance objectives for the licensing of any "land disposal facility" for low-level radioactive waste (LLW) containing source, special nuclear, and byproduct material. It also sets out technical requirements for "near-surface disposal facilities," a subset of land disposal facilities.

The performance objectives, which are set out in subpart C to part 61, require that any "land disposal facility" be sited, designed, operated, closed, and controlled after closure so that exposures to humans are within the specified limits. The performance objectives also address protection of inadvertent intruders and workers and minimizing the long-term care needed. Technical requirements, which are found in subpart D to part 61 help ensure that the performance objectives in subpart C will be met. Subpart D establishes the minimal technical requirements for a "near-surface disposal facility" in the areas of site suitability, site design, facility operation, waste form, waste classification, and site closure, although the option for alternative requirements is explicitly included for all areas except site suitability. Such a facility is defined in § 61.3 as a land-disposal facility constructed in or within the upper 30 meters of the earth's surface.

Part 61 was developed in response to needs and requests expressed by the public, Congress, Industry, the States, and other Federal Agencies for the codification of comprehensive national criteria to define the level of safety that should be achieved in the land disposal of LLW. Since its promulgation, Part 61 has served as the basis for the development of compatible State regulations for LLW disposal facilities and related licensing guidance documents such as NRC's "Standard Review Plan for a License Application for a LLW Disposal Facility" (NUREG-1200), and the "Standard Format and Content Guide for a License Application for a LLW Disposal Facility" (NUREG-1199).

In response to a potential national shortage of LLW disposal capacity, Congress enacted the "Low-Level Radioactive Waste Policy Act of 1980," (LLRWPA). This act was subseqently amended by the "Low-Level Radioactive Waste Policy Amendments Act of 1985," (LLRWPAA). These Acts made the individual States responsible for the management and safe disposal of all commercial LLW generated within their borders. Congress also mandated that the States, either alone or in groups called Compacts, were to develop the capability to dispose of their LLW by January 1, 1993. States that fail to meet this deadline face significant economic penalties and the potential loss of access to any available LLW disposal capacity.

Given the mandated deadlines, applications for LLW disposal licenses are already under review and additional applications will be filed in the next few years either with NRC or the appropriate NRC Agreement States (States that have assumed the NRC's regulatory responsibilities for the disposal of LLW under section 274 of the Atomic Energy Act of 1954, as amended). Part 61 or the equivalent and compatible Agreement State regulations are and will be used to determine the acceptability of the proposed LLW disposal facilities.

A review of part 61 against the backdrop of current State and Compact efforts to site and develop LLW disposal facilities has identified two places in the regulations where the current wording is imprecise and should be changed. Currently, § 61.2 defines a "land disposal facility" as a LLW disposal facility built "into the subsurface of the land." The words "into the subsurface" have been interpreted as limiting the regulatory applicability of part 61 to those facilities that are covered with

soil, so as to exclude above-ground disposal facilities like above-ground vaults, that are not covered with soil.

In the second instance, § 61.12(j) of the regulation incorrectly labels the quality assurance (QA) program developed for the facility over its entire life from planning, through site characterization, construction, operation, and closure, as a quality control (QC) program. From both the breadth of the program as described in § 61.12(j) and in staff documents related to LLW disposal, the description of the information regarding the applicants' "quality control" program to be submitted in the application and to be reviewed by the NRC as presented in NUREGs 1199, and 1200, clearly is intended to be a quality assurance program, of which quality control is a component. Further clarification was provided by the staff in NUREG–1293 "Quality Assurance Guide for a Low-Level Radioactive Waste Disposal Facility." It is clear that NRC had actually intended to require the applicant to develop a quality assurance program for the LLW disposal facilities.

(Copies of NUREG–1199, NUREG–1200, and NUREG–1293 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and copying for a fee in the NRC Public Document Room, 2120 L Stret, NW. (Lower Level), Washington, DC.)

In the third instance, NRC is proposing to update § 61.8— the "Information Collection Requirements—OMB approval" statement to reflect the fact that subsequent to the original issuance of part 61, NRC requested, and obtained the Office of Management and Budget (OMB) approval for the part 61 information collection requirements. Section 61.8 was to be corrected the first time other revisions were made to part 61.

NRC has also identified a fourth place in part 61 where a reporting requirement is inconsistent with the present organization of NRC.

Accordingly, the Commission has initiated this rulemaking to make the necessary changes to part 61.

Discussion of Proposed Revisions

I. Amend the definition of "land disposal facility" in § 61.2 to specify that the term refers to LLW disposal facilities which are on or protrude through the earth's surface and do not have an earthen cover, in addition to those that are in the ground and have an earthen cover. The purpose of this change is to clarify the regulatory applicability of part 61 to the licensing of "above-ground" disposal designs like the "above-ground vault," in particular, the applicability of the performance objectives of part 61 to these designs.

The change that NRC is proposing to make to the definition of "land disposal facility" in part 61 will clarify that the regulation will be used by NRC to license above-ground disposal facilities. However, at this time the NRC has no specific criteria analogous to the near-surface disposal requirements of §§ 61.50(a), 61.51(a), and 61.52(a) of subpart D for above-ground disposal because of the special technical characteristics of above-ground disposal facilities. Only those portions of the regulation that apply generically to "land disposal facilities" will be directly applicable to above-ground disposal. Specifically, this means that the overall performance objectives of subpart C will apply as well as the part 61 administrative and procedural requirements, the environmental monitoring requirements, the financial assurance requirements, the waste transfer and manifest requirements, and the general institutional requirements.

Establishing the applicability of the subpart C performance objectives to above-ground disposal is particularly important. Any applicant for a license for an above-ground disposal facility under part 61 will have to demonstrate to the NRC that the proposed facility will meet the same safety requirements and dose limits that apply to any LLW disposal facility that is built completely underground. The demonstration of compliance will have to address the unique features of the above-ground design, the special technical considerations associated with those features, their potential health and safety consequences, and reconcile these with the subpart C performance objectives.

In addition, many of the existing subpart D requirements could be useful in evaluating the technical merits and general licensability of an above-ground disposal facility, even though under part 61 they are not applicable as requirements for such facilities.

To provide further clarification regarding the applicability of part 61 to the licensing of above-ground disposal facilities, NRC also is proposing to amend the "Disposal Facility" discussion in the Concepts Section—61.7. The proposed change to § 61.7(a)(1) will clarify the distinction made by the NRC between near-surface disposal and above-ground disposal, to emphasize that near-surface LLW disposal facilities built partially or totally above -grade have protective earthen covers, while similar facilities constructed without earthen covers are considered to be "above-ground disposal facilities".

It should be noted that NRC is not providing either technical criteria or guidance for above-ground disposal designs in this rulemaking. It is expected that, should NRC receive an application for above-ground disposal, criteria will be developed on a case-by-case basis.

II. Replace the term "quality control program" in § 61.12(j) with the term "quality assurance program, tailored to LLW disposal." The purpose of this change is to clarify what steps an applicant for an LLW disposal facility license must take in order to assure that the facility will perform as intended, and also to assure that the necessary records and documentation are available for evaluation and performance assessment by NRC or an Agreement State at the time of license submittal.

III. Revise § 61.8 to indicate that the NRC has requested and obtained OMB approval for the information collection requirements in part 61. Under the OMB guidelines that were in effect when the original part 61 was issued, OMB approval of the part 61 information collection requirements was not necessary because the regulation was expected to affect less than 10 licensees. Subsequently the OMB guidelines changed, and part 61 was no longer exempt from the OMB approval requirement. Accordingly, NRC submitted part 61 for OMB review and obtained the OMB clearance that is required by the Paperwork Reduction Act. The purpose of this proposed change is to update § 61.8 to correctly reflect this approval.

IV. Revise § 61.80(i)(1) to identify the correct NRC headquarters recipient of copies of the annual report.

Open Meeting on Proposed Changes

Before proceeding with the rulemaking, the NRC staff invited the States to an open public meeting to discuss the changes that NRC was contemplating for part 61. In order to maximize State participation, the meeting was held in conjunction with the annual meeting of the Conference of Radiation Protection Control Directors (CRPCD) on May 14, 1991 in Wichita, Kansas. At the meeting, NRC staff members briefly explained the proposed changes for part 61. State representatives and other attendees were given the opportunity to provide comments, to ask questions, or participate in further discussions. A

transcript was made of the meeting so the proceedings could be part of the formal record for the rulemaking. Attendees were given an additional 2 weeks to submit written comments. However, the NRC did not receive any comments in response to this opportunity.

Of the approximately forty State representatives that participated in the May 14, 1991, meeting, seven representatives (those from California, New York, Illinois, New Jersey, Washington, Pennsylvania, and Nebraska) offered comments. None of them voiced objections either to the specific revisions NRC was proposing or to the idea of revising part 61 in general. Two technical comments were offered at the Wichita meeting that were intended to address the issues for this rulemaking and both were considered in developing the proposed rule.

The representatives from Washington and Illinois expressed concern regarding the compatibility of the proposed changes with their State rules, because they are presently involved in LLW disposal facility license reviews. In order to prevent possible impacts on their licensing process, they suggested that if, as Agreement States, their States would be obligated to incorporate the resulting changes into their respective LLW regulations, they should be afforded flexibility in the manner or timing of this action. The NRC staff explained that it is NRC's policy to give Agreement States 3 years to reflect changes like those proposed for part 61 in their LLW regualtions. At the end of the three year period, if a State has not completed its licensing process, NRC staff would consider a limited extension on a case-by-case basis.

One of the commentors voiced concern about the concept of above-ground disposal. The commentor expressed doubt that an applicant for an above-ground disposal facility would be able to get a licensed engineer to certify the integrity of such a structure for 500 years unless long-term active maintenance was provided. While NRC acknowledges that there are significant engineering challenges that will have to be resolved by an applicant in order to license an above-ground disposal facility, the NRC does not want the language of part 61 to preclude an applicant from having the opportunity to meet those challenges.

The other commentor, from Nebraska, offered a comment about "above-grade" disposal facilities, the kind of facility that Nebraska is considering for its LLW disposal needs. The commentor noted that licensing an "above-grade" LLW disposal facility requires special guidance that is not provided in the current part 61. A recommendation was made for NRC to consult with the States currently developing above-grade disposal facilities for the benefit of their experience in this area.

From the NRC perspective, "above-grade disposal" and "above-ground disposal" are considered to be similar in that both rise above the land surface of the overall disposal site. However, for purposes of regulating LLW disposal under part 61, NRC makes an important distinction between the two. While "above-grade facilities" may rise above the original grade (surface) of the disposal site, they have a constructed soil cover and when completed do not actually protrude through the land surface to expose the disposal structure to the elements. NRC has determined that these types of facilities are already clearly covered under part 61 and are not of concern for this rulemaking. Although the comment did not directly apply to the proposed rulemaking, the experience gained by the States in licensing "above-grade" disposal could prove to be applicable and useful to licensing "above-ground" disposal.

Issue of Compatibility for Agreement States

Under existing NRC policy and guidelines, two of the changes proposed in this rulemaking would be matter of compatibility for the NRC Agreement States: The change to the definition of land disposal facility in § 61.2 is Division I compatibility, and the "QC" to "QA" change in § 61.12(j) is Division II. This means that if the final amendments to part 61 retain these provisions, those Agreement States which have assumed NRC's regulatory authority for the disposal of LLW under section 274 of the Atomic Energy Act (AEA) of 1954, as amended, will be required to incorporate the new definition of "land disposal facility" essentially verbatim directly into their State regulations for LLW disposal. The incorporation of the Division II change is also required, however, the Agreement States have more flexibility than for the Division I change. The language adopted need not be identical to the NRC regulations, but the effect cannot be less stringent. Based on the existing guidelines, the changes would have to be incorporated within 3 years after the final revisions to part 61 are issued.

The Commission, however, is currently considering a reevaluation of its compatibility policy and may decide to revise its requirements for the Agreement States. If a change is made to the compatibility policy that affects the above compatibility position, it may be necessary to revisit this position.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969 as amended, and the Commission's regulations in subpart A of 10 part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and therefore, an environmental impact statement is not required. Three of the proposed changes—the "quality control" to "quality assurance" change in § 61.12(j), the update of the Paperwork Reduction Act Statement in § 61.8, and the correction of the organizational inconsistency in § 61.80(i)(1) are the types of actions described in categorical exclusion § 51.22(c)(2). As such they are considered by the Commission to be corrective and nonsubstantive in nature and will not have a impact on the environment. The remaining changes, which will expand the applicability of part 61 to the licensing of above-ground LLW disposal, also will not have an impact on the environment in that these amendments do not change the required level of overall performance of LLW disposal. Further, any environmental impact of operating such a facility would be addressed as a part of the licensing action for that specific facility under 10 CFR part 51. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the environmental asssessment and the finding of no significant impact are available from Janet Lambert, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3857.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0135.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the alternatives considered by the Commission and explains the decision to revise part 61. The draft analysis is

available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Janet Lambert, (301) 492–3857.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The changes to part 61 that are proposed in this rule will only affect those entities that decide to apply for a license to build and operate a LLW disposal facility. In the Low-Level Radioactive Waste Policy Act 1980 (LLRWPA) and the Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPAA), Congress mandated that the individual States or groups of States called compacts should provide the LLW disposal capacity for the LLW generated within each of their borders. This rule will not have significant economic impact because the changes to part 61 are trivial in nature and only a small number of licensees are likely to be affected.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, that a backfit analysis is not required because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 61

Criminal penalty, Low-Level waste, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended and 5 U.S.C. 553, the NRC is proposing the following amendments to 10 CFR part 61.

PART 61—LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE

1. The authority citation for part 61 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246, (42 U.S.C. 5842, 5846); secs. 10 and 14, Public Law 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851).

For the purposes of Sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); Tables 1 and 2, §§ 61.3, 61.24, 61.25, 61.27(a), 61.41 through 61.43, 61.52, 61.53, 61.55, 61.56, and 61.61 through 61.63 are issued under sec. 161(b), 68, Stat. 948, as amended (42 U.S.C 2201)(b); §§ 61.9a, 61.10 through 61.16, 61.24 and 61.80 are issued under sec. 1610, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 61.2, the definition of "land disposal facility" is revised to read as follows:

§ 61.2 Definitions.

* * * * *

Land disposal facility means the land, buildings, and equipment which are intended to be used for the disposal of radioactive wastes on the surface or into the subsurface of the land. For purposes of this Chapter, a "geologic repository" as defined in part 60 is not considered a "land disposal facility."

* * * * *

3. In § 61.7, paragraph (a)(1) is revised to read as follows:

§ 61.7 Concepts.

(a) *The Disposal Facility.* (1) Part 61 is intended to apply to land disposal of radioactive waste and not to other methods such as sea or extraterrestrial disposal. Part 61 contains procedural requirements and performance objectives applicable to any method of land disposal. It contains specific technical requirements for near-surface disposal of radioactive waste, a subset of land disposal, which involves disposal in the uppermost portion of the earth, approximately 30 meters. Near-surface disposal includes disposal in engineered facilities which may be built totally or partially above-grade provided there is a protective earthen cover. Near-surface disposal does not include disposal facilities which are partially or fully above-grade with no protective earthen cover, which are referred to as "above-ground disposal. Burial deeper than 30 meters may also be satisfactory. Technical requirements for alternative methods may be added in the future.

* * * * *

4. Section 61.8 is revised to read as follows:

§ 61.8 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collecton requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*). OMB has approved the information collection requirements contained in this part under control number 3150–0135.

(b) The approved information collection requirements contained in this part appear in §§ 61.3, 61.6, 61.9, 61.10, 61.11, 61.12, 61.13, 61.14, 61.15, 61.16, 61.20, 61.22, 61.24, 61.26, 61.27, 61.28, 61.30, 61.31, 61.53, 61.55, 61.57, 61.58, 61.61, 61.62, 61.63, 61.72, and 61.80.

5. In § 61.12, paragraph (j) is revised to read as follows:

§ 61.12 Specific technical information.

* * * * *

(j) A description of the quality assurance program, tailored to LLW disposal, developed and applied by the applicant for the determination of natural disposal site characteristics and for quality assurance during the design, construction, operation, and closure of the land disposal facility and the receipt, handling, and emplacement of waste.

* * * * *

6. In § 61.80, (i)(1) is revised to read as follows:

§ 61.80 Maintenance of records, reports, and transfers.

* * * * *

(i)(1) Each licensee authorized to dispose of waste materials received from other persons, pursuant to this part, shall submit annual reports to the appropriate Commission regional office shown in appendix D of part 20 of this chapter, with copies to the Director, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Reports must be submitted by the end of the first calendar quarter of each year for the preceding year;

* * * * *

Dated at Rockville, Maryland, this 28th day of February, 1992.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 92–5247 Filed 3–5–92; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R–0750]

Regulation D - Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board is publishing for comment two amendments to its

Regulation D to facilitate the computation and maintenance of reserves. The Board proposes to reduce the lag in the application of vault cash to reserve requirements in order to damp the seasonal variations in required reserve balances resulting from the current lag in application and thereby reduce the probability that reserve balances will drop seasonally to levels that would cause depository institutions difficulty in managing their reserve balances. The Board also proposes to increase the amount of excesses or deficiencies in reserve balances that may be carried over from one reserve maintenance period to the next from the greater of 2 percent or $25,000 to the greater of 4 percent or $50,000.

DATES: Comments should be received by April 6, 1992.

ADDRESSES: Comments, which should refer to Docket No. R–0750, may be mailed to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551, to the attention of Mr. William W. Wiles, Secretary.

Comments addressed to the attention of Mr. Wiles may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street NW. Comments may be inspected in room B–1122 between 9 a.m. and 5 p.m., except as provided in § 261.8 of the Board's Rules Regarding the Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Patick J. McDivitt, Attorney (202/452–3818), or Lawranne Stewart, Attorney (202/452–3513), Legal Division; or Joshua Feinman, Economist (202/452–2841), Division of Monetary Affairs. For the hearing impaired *only*, Telecommunications Device for the Deaf ("TDD"), Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION: The Board is proposing for public comment revisions to its Regulation D, Reserve Requirements of Depository Institutions, 12 CFR part 204, concerning the computation and maintenance of reserves. The proposed changes, which concern vault cash and carryover of reserve deficiencies an excesses, are intended to improve the ability of depository institutions to manage their reserve balances.

Vault Cash

The Board proposes to amend Regulation D to reduce the lag in the application of vault cash to reserve requirements from two periods to one in order to better synchronize movements in required reserves and applied vault cash. Currently, reserve requirements for depository institutions that report weekly are assessed against transaction accounts on a contemporaneous basis,[1] but offsetting vault cash is applied to the required reserves with a two period lag. This asymmetric treatment of required reserves and applied vault cash often results in potentially disruptive movements in required balances, particularly early in the year. In the maintenance period encompassing Christmas and year-end, for example, both vault cash and required reserves tend to reach their respective seasonal peaks. Vault cash applicable for meeting the enlarged reserve requirements for this period, however, is based on the much smaller vault cash holdings from November. As a result, the required reserve balances needed to meet reserve requirements tend to peak around year-end. These balances subsequently drop precipitously, usually reaching a trough in late January and early February, when reserve requirements have typically fallen from their end-of-year crest and the enlarged vault cash holdings from year-end become available for use in meeting those requirements. This sharp drop in required balances often makes it more difficult for banks to manage their reserve accounts.

The Board believes that placing required reserves and the vault cash available for meeting those requirements in closer proximity would offset some of the volatility in required reserve balances and help temper the seasonal drop in these balances in early February without significantly impairing reserve forecasts. The Board requests comment as to whether a reduction in the lag in the application of vault cash would improve the ability of depository institutions to manage their required reserve balances or whether the proposal would have any adverse effects on their ability to predict required reserve balances. The Board also requests comment as to the costs of implementing a shift in vault cash application, and whether these costs would be considered significant in relation to the benefits of the proposed amendment to the depository institution. If depository institutions believe that the costs of implementing a shift are prohibitive so that the shift should not be implemented, the Board requests comments as to whether depository institutions will be able to manage their reserve positions effectively at the newly implemented level of reserve requirements during the seasonal lows in required reserve balances in January and February.

Carryover of Excesses or Deficiencies

The Board proposes to increase the amount of carryover to the greater of 4 percent of required reserves and clearing balances [2] or $50,000. Currently, carryover of reserve surpluses or deficiencies into the next maintenance period is permitted up to the greater of 2 percent of the sum of required reserves and required clearing balances or $25,000. In either case, the carryover is reduced by the amount of an institution's required clearing balance penalty-free band, if applicable.[3] Reductions in reserve requirements have resulted in a decline in the maximum dollar value of the carryover, reducing the ability of a depository institution to cushion a given dollar shock to its reserve position late in maintenance period. Doubling maximum carryover permitted should provide depository institutions with more flexibility in managing their reserve positions.

Additionally, the Board proposed to amend the lanaguage of the carryover provision to clarify and more accurately reflect the method used to calculate the maximum carryover permitted.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 5 U.S.C. 601 *et seq.*), the Board certifies that the proposed amendment will not have a significant economic impact on a substantial number of small entities. The Board does not believe that the proposed amendments would impose any additional reporting or recordkeeping requirements. To the

[1] Weekly reporters generally are depository institutions with total deposits of $44.8 million or more. Required reserves for weekly reporters are assessed based on daily average balances for a period beginning on a Tuesday and ending on the second Monday thereafter. This period is known as the "computation period." Reserves against the daily average balances for the computation period must be maintained throughout the "maintenance period," which begins on the Thursday following the beginning of the computation period and ends on the second Wednesday thereafter. See 12 CFR 204.3(c).

[2] Required clearing balances are set by agreement between a depository institution and its Federal Reserve Bank, based on clearing needs of the depository and its account overdraft record. Information on clearing balance requirements may be obtained from a depository institution's local Reserve Bank.

[3] The required clearing balance penalty-free band is currently equal to the greater of $25,000 or 2 percent of the depository institution's required clearing balance.

extent changes in recordkeeping procedures may be required by the vault cash proposal, this will affect only weekly reporters, that is, depository institutions with total deposits of $44.8 million or more, and should enable these depository institutions to manage their required reserves more efficiently. Smaller institutions, which report only quarterly, will not be affected by the vault cash amendment.

List of Subjects in 12 CFR Part 204

Banks, banking, Currency, Federal Reserve System, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, and pursuant to the Board's authority under section 19 of the Federal Reserve Act, 12 U.S.C. 461 *et seq.*, the Board is proposing to amend 12 CFR part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS

1. The authority citation for part 204 continues to read as follows:

Authority: Sections 11(a), 11(c), 19, 25, 25(a) of the Federal Reserve Act (12 U.S.C. 248(a), 248(c), 371a, 371b, 461, 601, 611); section 7 of the International Banking Act of 1978 (12 U.S.C. 3105); and section 411 of the Garn St-Germain Depository Institutions Act of 1982 (12 U.S.C. 461).

2. section 204.3 is amended by revising paragraphs (c)(3) and (h) to read as follows:

§ 204.3 Computation and maintenance.

* * * * *

(c) * * *

(3) In determining the reserve balance that is required to be maintained with the Federal Reserve, the daily average vault cash held during the computation period that ended 3 days prior to the beginning of the maintenance period is deducted from the amount of the institution's required reserves.

* * * * *

(h) *Carryover of excesses or deficiencies.* Any excess or deficiency in a depository institution's account that is held directly or indirectly with a Federal Reserve Bank shall be carried over and applied to that account in the next maintenance period as specified in this paragraph. The amount of any such excess or deficiency that is carried over shall not exceed the greater of:

(1) The amount obtained by multiplying .04 times the sum of the depository institution's required reserves and the depository institution's required clearing balance, if any, and then substracting from this product the depository institution's required clearing balance penalty-free bank, if any; or

(2) $50,000, minus the depository institution's required clearing balance penalty-free band, if any.

Any carryover not offset during the next period may not be carried over to subsequent periods.

* * * * *

By order of the Board of Governors of the Federal Reserve System, March 2, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-5219 Filed 3-5-92; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA-41-91]

RIN 1545-AQ15

Information Returns of Brokers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations under section 6045 of the Internal Revenue Code of 1986, relating to information returns of brokers. Changes to the applicable law were made by the Tax Equity and Fiscal Responsibility Act of 1982. The proposed regulations affect brokers effecting certain spot or forward sales of agricultural commodities and provide them with guidance needed to comply with the law.

DATES: Written comments must be received by May 5, 1992. Requests to speak (with outlines of oral comments) at a public hearing scheduled for April 21, 1992, at 10 a.m. must be received by April 7, 1992.

ADDRESSES: Send comments, requests to appear at the public hearing, and outlines of comments to be presented to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, room 5228, Attn: CC:CORP:T:R (IA-41-91), Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: John P. Moriarty of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service, 202-377-9589 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T:FP, Washington, DC 20224.

The collection of information in this regulation is contained in § 1.6045-1(c)(7). This information is required by the Internal Revenue Service to ensure that persons claiming exception under the proposed regulations from the general information reporting requirements contained in section 6045 are eligible for the exception. The information will be used to validate eligibility for the exception. The likely respondents and recordkeepers are businesses or other for-profit institutions.

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

Estimated total annual reporting burden: 2,000,000 hours.

Estimated average annual burden per respondent: 1.0 hour.

Estimated number of respondents: 2,000,000.

Estimated frequency of responses: On occasion.

Estimated total annual recordkeeping burden: 5,000 hours.

Estimated average annual burden per recordkeeper: .25 hours.

Estimated number of recordkeepers: 20,000.

Background

This document contains a proposed amendment to the Income Tax Regulations under section 6045 relating to an exception from the reporting requirements for certain sales of agricultural commodities. Section 6045(a) provides that all persons who conduct business as a broker shall file such information returns as may be required by regulation. Section 6045(c)(1) defines the term "broker" to include a dealer, a barter exchange, or any other person who (for a consideration) regularly acts as a middleman with respect to property or services.

On March 3, 1983, the Service published in the **Federal Register** (48 FR 10304) regulations requiring reporting by brokers of sales of securities or commodities effected by them in the ordinary course of their business. These regulations generally define a broker to be a person that, in the ordinary course of business during the calendar year, stands ready to effect (as agent or principal) sales to be made by others. A commodity includes any type of personal property, or an interest therein, the trading of futures contracts in which has been approved by the Commodity Futures Trading Commission.

On January 5, 1984, the Service published the **Federal Register** (49 FR 646) proposed amendments to the regulations under section 6045 to clarify the definition of a commodity. A number of comments responding to that notice of proposed rulemaking suggested exemptions from the reporting requirement for sales of agricultural commodities. On February 19, 1991, the Service published Announcement 91–20 in 1991–7 I.R.B. 31, providing that for 1990 and prior years reporting is not required under section 6045 for spot and forward sales of agricultural commodities (but not for interests in agricultural commodities, such as regulated futures contracts or forward contracts) and sales of negotiable commodity certificates issued by the Commodity Credit Corporation ("CCC Certificates"). The rules of Announcement 91–20 were extended to sales made in 1991 by Announcement 91–177, 1991–48 I.R.B. 87.

Explanation of Provisions

These proposed regulations provide an exception to the reporting requirements of section 6045 for the spot or forward sale of an agricultural commodity if the customer certifies that the customer produced the commodity and the broker does not know that any information in the certificate is incorrect. Agricultural commodities include, but are not limited to, grain, feed, livestock, meat, oil seed, timber, or fiber. The proposed regulations define a spot sale to be a sale that results in the immediate delivery of a commodity and a forward sale to be a sale pursuant to a forward contract. Sales of agricultural commodities pursuant to regulated futures contracts and sales of derivative interests in agricultural commodities are not excepted from reporting by the proposed regulations.

A person is treated as having "produced" a commodity if the person grew, cultivated, or raised the commodity. A person engaged in the business of farming within the meaning of § 1.175–3 of the regulations will be treated as having produced all commodities produced by that particular business. Thus, for example, no information reporting is required for: (a) A sale of livestock by a farmer or rancher who raised their livestock, or (b) a sale of crops by a farmer who grew those crops.

The proposed regulations specify that a certificate must contain the name, address and taxpayer identification number of the customer and the broker; identify the type or types of agricultural commodities to which the certificate applies; state that those commodities have been or will be produced by the customer; and state whether the certificate applies to a single sale or multiple sales. If the certificate applies to a single sale, it must specify the sale date. If the certificate applies to multiple sales, it must specify the effective date of the certificate (which may not be a date earlier than the beginning of the calendar year in which the certificate is signed) and the expiration date of the certificate (which may not be a date more than one year after the effective date). Unless the broker requires a separate certificate or the customer otherwise notifies the broker, a multiple sales certificate applies to all sales of the specified agricultural commodities that the broker effects for the customer during such period. A certificate may be included as part of any business records ordinarily used to document a sale.

Under the proposed regulations, no information return is required under section 6045 for the sale of a CCC Certificate effected on behalf of a customer. This exception is provided because currently there is little opportunity to speculate using these certificates. The proposed regulations, however, provide the Internal Revenue Service may in the future publish a notice in the Internal Revenue Bulletin requiring reporting with respect to these certificates.

The proposed regulations will apply to sales effected on or after the date of publication of final regulations in the **Federal Register**. A transition rule is provided for sales effected before the date of publication of final regulations in the **Federal Register**. The transition rule applies the rules of Announcement 91–20 to these sales.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, an initial Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests To Appear at Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely (preferably an original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying.

A public hearing will be held on Tuesday, April 21, 1992, at 10 a.m. in the Internal Revenue Service Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply to the public hearing.

Persons who have submitted written comments by April 7, 1992, and who also desire to present oral comments at the hearing on the proposed regulations, should submit, not later than April 7, 1992, a request to speak and an outline of the oral comments to be presented at the hearing stating the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers thereto.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building before 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is John P. Moriarty of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing

the regulations on matters of both substance and style.

List of Subjects in 26 CFR 1.6031–1 Through 1.6060–1

Income taxes, Reporting and recordkeeping requirements.

Proposed amendments to the regulations

Accordingly, the proposed amendments to 26 CFR, part 1, are as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

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

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805, 26 U.S.C. 6038 and 26 U.S.C. 6038. * * * Section 1.6045–1 also issued under 26 U.S.C. 6045. * * *

Par. 2. Section 1.6045–1 is amended by revising paragraph (c)(3) and adding paragraph (c)(7) to read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

* * * * *

(c) * * *

(3) *Exceptions.* The exceptions set forth in paragraph (c)(3) of § 5f.6045–1 of this chapter apply to sales effected on or after May 29, 1984. For an exception for certain sales of agricultural commodities and cerificates issued by the Commodity Credit Corporation, see paragraph (c)(7) of this section. With respect to sales effected before May 29, 1984, the exceptions provided in § 1.6045–1(c)(3) (as contained in the CFR edition revised as of April 1, 1983) apply.

* * * * *

(7) *Exception for certain sales of agricultural commodities and commodity certificates*—(i) *Agricultural Commodities.* No return of information is required under section 6045 for a spot or forward sale of an agricultural commodity if the sale satisfies the certification requirements of paragraph (c)(7)(iii) of this section and the broker (or any employee or agent of the broker responsible for receiving or reviewing such certificate) does not know that information provided in the certificate is incorrect. This paragraph (c)(7)(i) does not except from reporting either sales of agricultural commodities pursuant to regulated futures contracts or sales of derivative interests in agricultural commodities.

(ii) *Commodity Credit Corporation certificates.* Except as otherwise provided by the Internal Revenue Service in the Internal Revenue Bulletin, no return of information is required under section 6045 with respect to a sale of a commodity certificate issued by the Commodity Credit Corporation under 7 CFR 1470.4 (1990).

(iii) *Certification Requirements.* For purposes of paragraph (c)(7)(i) of this section, a spot or forward sale of an agricultural commodity satisfies the requirements of this paragraph (c)(7)(iii) only if the customer provides or has provided to the broker a certificate, signed by the customer under penalties of perjury, that—

(A) Applies to the commodity being sold (as described in paragraph (c)(7)(iv) of this section);

(B) Identifies the type of types of agricultural commodities to which the certificate applies;

(C) Provides the name, address, and taxpayer identification number of the customer and the broker;

(D) Certifies that the agricultural commodities to which the certificate applies have been or will be produced (within the meaning of paragraph (c)(7)(v)(B) of this section) by the customer;

(E) Specifies whether the certificate applies to a single sale or multiple sales;

(F) If the certificate applies to a single sale, specifies the date of the sale; and

(G) If the certificate applies to multiple sales, specifies the date the certificate becomes effective (which may be no earlier than the beginning of the calendar year in which the certificate is provided) and the date the certificate is to expire (which may be no later than one year after the effective date).

A certificate may be included as part of any business records ordinarily used to document a sale. A broker must retain a certificate for at least four years after the end of the last calendar year for which a return of information is not required by reason of such certificate. A broker may, at its option, require a customer to provide a new certificate for any transaction.

(iv) *Commodities to which a certificate applies.* If a certificate applies to a single sale, it applies to all agricultural commodities of the type or types identified in the certificate that are sold in that transaction, unless the customer otherwise notifies the broker. If a certificate applies to multiple sales, it applies to all agricultural commodities of the type or types identified in the certificate that are sold in sales effected by the broker for the customer from the date that the certificate is effective through the date that the certificate expires, unless the customer otherwise notifies the broker or the broker requires a new certificate. A multiple sales certificate expires on the earlier of the date specified on the certificate or the date a new certificate provided by the customer becomes effective. A new certificate must be provided if any information in a current certificate changes.

(v) *Certain definitions.* For purposes of this paragraph:

(A) *Agricultural commodity.* An "Agricultural commodity" includes, but is not limited to, a commodity within the meaning of paragraph (a)(5) of this section that is a grain, feed, livestock, meat, oil seed, timber, or fiber.

(B) *Produced.* A person "produces" a commodity if that person grows, cultivates, or raises the commodity. A person engaged in the business of farming within the meaning of § 175–3 will be treated as having produced all commodities produced by that particular business.

(C) *Spot sale.* A spot sale is a sale that results in the essentially contemporaneous delivery of a commodity.

(D) *Forward sale.* A forward sale is a sale pursuant to a forward contract within the meaning of paragraph (a)(7) of this section.

(vi) *Examples.* The following examples illustrate the application of paragraph (c)(7) of this section to the reporting requirements for sales effected on or after the date of publication of final regulations in the **Federal Register**. Unless specifically provided to the contrary, the sale in each example is effected by a broker within the meaning of this section.

Example 1. A conducts auctions of livestock. B, an individual who feeds calves until they weigh approximately 500 pounds, and C an individual who feeds feeder cattle weighing approximately 500 pounds until they weigh approximately 800 pounds, are both customers of A. B and C each provide A with certificates that contain the information set forth in paragraph (c)(7)(iii) of this section. B's certificate certifies that the calves sold by B were produced by B and C's certificate certifies that the feeder cattle sold by C were produced by C. Under paragraph (c)(7)(i) of this section, A is not required to make a return of information for sales of calves by B or sales of feeder cattle by C.

Example 2. D, an individual, is in the business of operating a grain elevator and, as part of that business, enters into a forward contract to purchase wheat produced by E. E is an individual who provides D with a certificate containing the information set forth in paragraph (c)(7)(iii) of this section. E certifies that he produced the wheat. After taking delivery of the grain from E, D sells the wheat to F who is a broker under section 6045. Under paragraph (c)(7)(i) of this section, no return of information is required for the forward sale of wheat by E to D. However,

D's sale of the wheat to F is not excepted under paragraph (c)(7)(i) of this section from information reporting because D did not produce the grain. Accordingly, F must make a return of information for the sale by D to F.

Example 3. G, an individual, leases land to a farmer pursuant to which G is to receive fixed rental payments, in kind, without reference to production. G does not materially participat in the operation or management of the farm and is not engaged in farming within the meaning of § 1.75–3. Accordingly, G does not produce, within the meaning of paragraph (c)(7)(v)(B) of this section, those commoditites produced in that business. If G received rental payments in kind based on a percentage of farm production, G would be engaged in farming within the meaning of section 1.173–3 and would produce, within the meaning of paragraph (c)(7)(v)(B) of this section, those commodities produced in that business.

(vii) *Effective dates.* Paragraph (c)(7) of this section applies to sales effected on or after the date of publication of final regulations in the **Federal Register.** For sales effected before the date of publication of final regulations in the **Federal Register,** the following transactions are excepted from the information reporting requirements of section 6045:

(A) Spot or forward sales of agricultural products or commodities (but not sales of interests in agricultural products or commodities, such as sales of regulated futures contracts or forward contracts), effected by any person regardless of whether that person takes title to the agricultural products of commodities; and

(B) Sales of negotiable commodity certificates issued by the Commmodity Credit Corporation.

David G. Blattner,

Acting Commissioner of Internal Revenue.

[FR Doc. 92–5171 Filed 3–5–92; 8:45 am]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Ch. I

[Notice No. 736]

Review of Existing Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of request for public comment.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (AFT) is soliciting public comment as to which, if any, of the regulations and programs which ATF administers impose substantial burdens on the economy. This request is being made to assist ATF in implementing the President's January 28, 1992, regulatory initiative.

DATES: Comments must be received on or before April 6, 1992.

ADDRESSES: Send written comments to: Deputy Associate Director (Compliance Operations), Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221, Atten: Notice No. 736.

FOR FURTHER INFORMATION CONTACT: Marjorie D. Ruhf, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC 20226, (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

On January 28, 1992, President Bush announced a regulatory initiative. This initiative included a 90-day moratorium on issuance of proposed or final rules. The moratorium does not apply to regulations which are subject to a statutory or judicial deadline or to:

(a) Regulations that the agency determines, after consultation with the working group of the Council on Competitiveness, will foster economic growth;

(b) Regulations that respond to emergencies such as situations that pose an imminent danger to human health or safety;

(c) Regulations that the agency determines, after consultation with the working group of the council on Competitiveness, are essential to a criminal law enforcement function of the United States;

(d) Regulations issued with respect to a military or foreign affairs function of the United States;

(e) Regulations related solely to agency organization, management, or personnel; and

(f) Formal regulations required by statute to be made on the record after opportunity for an agency hearing.

The President also called for a review of all existing regulations and programs to identify any which impose substantial costs on the economy. Each agency has been instructed to determine if regulations so identified satisfy five requirements:

(a) The expected benefits to society of any regulation should clearly outweigh the expected costs it imposes on society.

(b) Regulations should be fashioned to maximize net benefits to society.

(c) To the maximum extent possible, regulatory agencies should set performance standards instead of prescriptive commend-and-control requirements, thereby allowing the regulated community to achieve regulatory goals at the lowest possible cost.

(d) Regulations should incorporate market mechanisms to the maximum extent possible.

(e) Regulations should provide clarity and certainty to the regulated community and should be designed to avoid needless litigation.

In cases where the agency's review discloses regulations or programs which do not meet these standards, the agency will, as soon as possible, propose administrative changes which will bring each of its regulations and programs into conformity with these standards. To ensure maximum public involvement in this effort, ATF is soliciting public comment as to which, if any, of its regulations and programs impose substantial burdens on the economy and do not satisfy the five requirements listed above. The Bureau requests that comments be as specific as possible.

Drafting Information

The author of this document is Marjorie D. Ruhf, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority: This notice is issued under the authority in 5 U.S.C. 301, 18 U.S.C. 847 and 926, 22 U.S.C. 2778, 26 U.S.C. 7805, and 27 U.S.C. 205 and 215.

Approved: February 28, 1992.

Stephen E. Higgins,

Director.

[FR Doc. 92–5191 Filed 3–5–92; 8:45 am]

BILLING CODE 4810–31–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S–760–B]

RIN 1218–AB27

Accreditation of Training Programs for Hazardous Waste Operations

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Occupational Safety and Health Administration (OSHA) issued a notice February 10, 1992 (57 FR 4858) reopening the record on its proposed rule on Accreditation of Training Programs for Hazardous Waste Operations. The notice requested further public comments only on the final report of a survey conducted by OSHA which

collected information on the number, type and characteristics of training programs for hazardous waste and emergency response workers.

OSHA has received requests to extend the comment period established in the February 10, 1992 notice for an additional two months to gather data relevant to the survey's findings. OSHA is granting that request and is extending the comment deadline of March 26, 1992 established in its February notice for an additional two months until May 26, 1992. OSHA is granting this extension to provide interested parties with the additional time necessary to gather data relevant to the survey and for organizations to collate individual comments received from their members. Comments are only requested on the survey and data relevant to it. See the February 10, 1992 **Federal Register** notice for further information.

DATES: Comments must be postmarked by May 26, 1992.

ADDRESSES: 1. Copies of the report are available at or upon either telephone or written request to the Docket Office, Occupational Safety and Health Administration, room N–2625, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210; Telephone: (202) 523–7894.

2. Written comments on the report should be submitted in quadruplicate to the Docket Office, Docket No. S–760–B, OSHA room N–2625, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, 202–523–8151.

Signed at Washington, DC this 28th day of February, 1992.

Dorothy L. Strunk,

Acting Assistant Secretary of Labor.

[FR Doc. 92–5234 Filed 3–5–92; 8:45 am]

BILLING CODE 4510–26–M

Mine Safety and Health Administration

30 CFR Parts 56, 57, 70, 71, 75, and 77

RIN 1219–AA55

Advance Notice of Proposed Rulemaking for Confined Spaces; Extension of Comment Period

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice to extend period for public comment.

SUMMARY: Due to requests from the public, the Mine Safety and Health Administration (MSHA) is extending the period for public comment regarding its advance notice of proposed rulemaking for confined spaces.

DATES: Written comments on the advance notice of proposed rulemaking for confined spaces must be received on or before May 1, 1992.

ADDRESSES: All comments must be sent to: Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: On December 30, 1991, MSHA published an advance notice of proposed rulemaking (56 FR 67364) regarding hazards related to entering and working in confined spaces in mining. The comment period was scheduled to end on February 28, 1992. In response to requests from the public, MSHA is extending the time for commenting on this advance notice of proposed rulemaking to May 1, 1992. All interested parties are encouraged to submit comments prior to that date.

Dated: February 28, 1992.

William J. Tattersall,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 92–5188 Filed 3–5–92; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701, 780, 784, 816, and 817

RIN 1029–AB40

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Performance Standards; Availability of Decision; Permanent and Temporary Impoundments; Denial of Petition

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

ACTION: Notice of decision on petition for rulemaking.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the United States Department of the Interior (DOI) is making available to the public its final decision on a petition for rulemaking from Stuart A. Sanderson, Senior Counsel, and Harold P. Quinn, Jr., Vice President and Counsel, representing the Joint NCA/AMC Committee on Surface Mining Regulations, Coal Building, 1130 17th St., NW., Washington, DC. The petition suggests that OSM amend its rules to incorporate the statutory distinction between temporary and permanent impoundments as it pertains to the incorporation of standards issued under Public Law 83–566 (16 U.S.C. 1006) including Technical Release Number 60 (TR–60) published by the Soil Conservation Service (SCS).

DATES: On March 2, 1992, the Director denied the petition.

ADDRESSES: Copies of the petition, and other relevant materials comprising the Administrative Record of this petition are available for public review and copying at the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert A. Wiles, P.E., Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: 202–343–1502 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Petition for Rulemaking Process
II. The NCA Petition

I. Petition for Rulemaking Process

Pursuant to section 201(g) of the Surface Mining Control and Reclamation Act of 1977 (the Act or SMCRA), any person may petition the Director of OSM to initiate a proceeding for the issuance, amendment, or repeal of any of the regulations implementing SMCRA. The regulations governing the handling of rulemaking petitions are found at 30 CFR 700.12. Under the rules, the Director may publish a notice in the **Federal Register** seeking comments on the petition and hold a public hearing, conduct an investigation, or take other action to determine whether the petition should be granted. If the petition is granted, rulemaking proceedings will be initiated in which public comment will again be sought before a final rulemaking notice appears. If the petition is denied, the Director notifies the petitioner in writing setting forth the reasons for denial. Under 30 CFR 700.12, the Director's decision constitutes the final decision for the Department of the Interior.

II. The NCA Petition

OSM received a letter on September 12, 1991, from Stuart A. Sanderson, Senior Counsel, and Harold P. Quinn, Jr., Vice President and Counsel, representing the Joint NCA/AMC Committee on Surface Mining Regulations, Coal Building, 1130 17th Street NW., Washington, DC, as a petition for rulemaking. The petitioners requested that the agency reevaluate and propose for comment a rulemaking which will incorporate the statutory distinction between temporary and permanent impoundments as it pertains to the incorporation of standards issued under Public Law 83–566 including TR–60. In response to that petition, on October 21, 1991, OSM published a notice in the **Federal Register** of the petition's availability and requested comments. [56 FR 52494].

For the reasons discussed in the appendix to this notice, the Director has deined the petition to amend the rules to incorporate the statutory distinction between temporary and permanent impoundments. Therefore, no rulemaking will occur on this petition.

The Director's letter of response to the petitioners on this rulemaking petition appears as an appendix to this notice. This letter reports the Director's decision to the petitioners. As noted in the appendix, a full discussion of the issues in the petitioners letter will be analyzed concurrently with the comments to the proposed rule to amend portions of the permanent program regulations governing permanent and temporary impoundments published June 28, 1991. (56 FR 29774) The preamble will evaluate the issues raised by the petitioners, an analysis of the petitioners' proposed regulatory changes, and a discussion of the comments received on the petition.

Dated: March 2, 1992.

Harry M. Snyder,

Director.

Appendix

Date

Mr. Harold P. Quinn, Jr. and Mr. Stuart A. Sanderson,

Joint NCA/AMC Committee on Surface Mining Regulation Coal Building, 1130 17th Street NW., Washington, DC 20036.

Gentlemen: This letter is in response to your petition dated August 26, 1991 (received September 12, 1991), to the Office of Surface Mining Reclamation and Enforcement (OSM) requesting that the agency reevaluate and propose for comment a rulemaking which will incorporate the statutory distinction between temporary and permanent impoundments as it pertains to the incorporation of standards issued under Public Law 83–566 including Technical Release No. 60 (TR–60), "Earth Dams and Reservoirs" published by the Soil Conservation Service (SCS).

Following the receipt of your letter, OSM published on October 21, 1991, a notice in the **Federal Register** of the availability and requested comments on that petition. [56 FR 52494] The official administrative record log lists four comments entered in response to the petition. The comment period closed on November 21, 1991.

The comment period for the petition coincided with the third comment period on a proposed rule to amend portions of the permanent program regulations governing permanent and temporary impoundments published June 28, 1991. (56 FR 29774) The proposed rule of June 28, 1991, would apply certain specific technical standards found in TR–60 for both permanent and temporary impoundments. The proposed rule would adopt the SCS Class B and C criteria for dams, and the freeboard hydrograph criteria and emergency spillway hydrograph criteria in the Minimum Emergency Spillway Hydrologic Criteria table in TR–60 to both temporary and permanent impoundments. The application of design storm criteria to both permanent and temporary impoundments will be evaluated during the review of the comments.

A separate rulemaking is unnecessary to enable OSM to consider the issues you raise in the petition. The issues addressed by your petition including OSM's authority to regulate temporary impoundments will be fully considered in OSM's pending rulemaking in which OSM proposed to apply certain SCS standards to temporary impoundments. The basis for any decision we make on the distinction between permanent and temporary impoundments will be fully discussed in the preamble to rulemaking on any final rule.

In addition for hazardous structures, we see no difference between temporary or permanent impoundments since the potential harm to downstream areas is the same for either type of structure. Also, temporary sediment control structures used for large surface or underground operations may remain operational for many years blurring the practical distinction between permanent and temporary structures.

For these reasons, I am denying your request to initiate a rulemaking to amend the rules to incorporate the distinction between temporary and permanent impoundments.

As provided in 30 CFR 700.12(d), my decision constitutes the final decision for the Department of the Interior.

Sincerely,

Harry M. Snyder,

Director.

[FR Doc. 92–5292 Filed 3–5–92; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 402

Tariff of Tolls: Proposed Revision

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada have jointly established and presently administer the St. Lawrence Seaway Tariff of Tolls. This Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the Corporation and the Authority. The Authority is proposing to the Corporation that the toll for materials for recycling be changed to the lower bulk rate from the current, higher general cargo rate. These materials are relatively low valued. The Corporation and the Authority believe that making the rate for these materials more competitive will encourage use of the Seaway system for their transit. The Authority also is proposing to the Corporation that a new business incentive toll be added for passenger vessels to encourage increased use of the Seaway system by that class of vessels.

DATES: Any party wishing to present views or data on the proposed revision may file comments with the Corporation on or before April 6, 1992.

ADDRESSES: Send comments to Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–0091.

SUPPLEMENTARY INFORMATION: It is proposed to amend § 402.3 by adding a new paragraph (b)(10) that will include within the definition of "bulk cargo", "material for recycling, scrap material, refuse and waste". This would change the toll for materials for recycling, materials that are relatively low valued, to the lower bulk rate from the current, higher general cargo rate. The Corporation and the Authority believe that making the rate for these materials more competitive will encourage use of the Seaway system for their transit, creating new business opportunities. It also is proposed that section 402.9 be

amended to add new paragraphs (f) through (i) to add a new business incentive toll for passenger vessels. This would be similar to the new business incentive tolls for cargoes already contained within that section. The amendment would provide a new business incentive toll for any passenger vessel that did not move through a Seaway lock during the 1988 and 1989 navigation seasons or the three navigation seasons immediately preceding the season in which a new business refund is submitted. Under this program, a qualifying passenger vessel would receive a 25% discount of the passenger per lock charge each transit it carries 20 passengers or more beginning within the Seaway after the opening of navigation and before July 1 or beginning on or after October 1 in 1992 and 1993 and ending at the closing of navigation in those years and a 50% discount for each transit it carries 20 or more passengers beginning on or after July 1 and before October 1 in 1992 and 1993. It will apply to both the Montreal-Lake Ontario and Welland Canal sections of the Seaway. Please not that this program will not result in an actual reduction of tolls for eligible vessels until it has been formally approved by both the Canadian and the United States governments through an exchange of diplomatic notes and a final rule has been published. Once that occurs, refunds will be made to those entitled to receive them.

Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States, and therefore, Executive Order 12291 does not apply. This proposed regulation has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and the proposed regulation is not considered significant under those procedures and its economic impact is expected to be so minimal that a full economic evaluation is not warranted.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls relates to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This proposed regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of human environment.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

PART 402—[AMENDED]

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend part 402—Tariff of Tolls (33 CFR part 402) as follows:

1. The authority citation for 33 CFR part 402 continues to read as follows:

Authority: 68 Stat. 93, 33 U.S.C. 981–990.

2. A new paragraph (b)(10) would be added to § 402.3 to read as follows:

§ 402.3 Interpretation.

* * * * *

(b) * * *

(10) Material for recycling, scrap material, refuse and waste:

* * * * *

3. New paragraphs (f) through (i) would be added to section 402.9 to read as follows:

§ 402.9 Incentive tolls.

* * * * *

(f) Not withstanding anything contained in this Tariff, the charge per passenger per lock charged on new business shall be reduced by:

(1) Twenty-five percent for a transit beginning within the Seaway after the opening of navigation and prior to July 1 or beginning on or after October 1 in the years 1992 and 1993 and ending at the closing of navigation in the years 1992 and 1993; or

(2) Fifty percent for a transit beginning on or after July 1 and prior to October 1 in the years 1992 and 1993.

(g) The reduction mentioned in paragraph (f) of this section shall be granted at the end of the applicable navigation season after payment of the full toll specified in the schedule under the tariff in § 402.8 of this Part if:

(1) A vessel carries 20 passengers or more during a transit qualifying as new business; and

(2) An application for a new business refund is submitted to the Authority or the Corporation for audit by the Authority or the Corporation.

(h) For the purposes of this section, "new business" means: A passenger vessel that has not moved through a Seaway lock during the navigation seasons of 1988 through 1989 or the three navigation seasons immediately preceding the season in which a new business refund is submitted.

(i) When a passenger vessel's transit qualifies as new business, at any time during 1992 or 1993, it shall continue to qualify until the end of the 1993 navigation season as long as it carries a minimum of 20 passengers.

Issued at Washington, DC on February 26, 1992.

Saint Lawrence Seaway Development Corporation.

Marc C. Owen,

Chief Counsel.

[FR Doc. 92–5181 Filed 3–5–92; 8:45 am]

BILLING CODE 4910–61–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OAQPS No. CA–12–11–5379; FRL–4112–3]

Approval and Promulgation of Implementation Plans California State Implementation Plan Revision; Bay Area Air Quality Management District, South Coast Air Quality Management District, and Ventura County Air Pollution Control District

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

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) adopted by the Bay Area Air Quality Management District (BAAQMD) on October 17, 1990, by the South Coast Air Quality Management District (SCAQMD) on December 7, 1990, and by the Ventura County Air Pollution Control District (VCAPCD) on September 11, 1990. The California Air Resources Board submitted the revisions from VCAPCD to EPA on April 5, 1991, and submitted the other revisions to EPA on May 13, 1991. The revisions addressed in this notice consist of BAAQMD rule 8–37, Natural Gas and Crude Oil Production Facilities, SCAQMD rule 465, Vacuum Producing Devises or Systems, SCAQMD rule 1123, Refinery Process Turnarounds, and VCAPCD rule 71, Crude Oil and Reactive Organic Compound Liquids. EPA has evaluated each of these rules and is proposing to approve them under sections 110(k)(3) as meeting the requirements of section 110(a) and part D of the Clean Air Act, as amended (CAA or the Act).

DATES: Comments must be received on or before April 6, 1992.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Southern California and Arizona, Rulemaking Section (A–5–

3), Air and Toxics Division, Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1219 "K" Street, Sacramento, CA 95814.
Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.
South Coast Air Quality Management District, 9150 Flair Dr., El Monte, CA 91731.
Ventura County Air Pollution Control District, 702 County Square Dr., Ventura, CA 93003.

FOR FURTHER INFORMATION CONTACT: Doris Lo, Northern California, Nevada and Hawaii Rulemaking Section (A–5–4), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1187, FTS: 484–1187.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA) that included the BAAQMD, SCAQMD, and VCAPCD. 43 FR 8964, 40 CFR 81.305. Becuase these three districts were unable to reach attainment by the statutory attainment date of December 31, 1982, California requested, and EPA approved, an extension of the attainment date for ozone for each district to December 31, 1987. 1977 CAA section 172(a)(2). The BAAQMD, SCAQMD and VCAPCD did not attain the ozone standard by the approved attainment date. On May 26, 1988, EPA notified the Governor of California that portions of the California State Implementation Plan (SIP) for these districts were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In section 182(a)(2)(A) of the Clean Air Act, as amended (CAA or the Act), Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas classified as marginal or above and requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[1] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The Bay Area is classified as moderate, San Diego is classified as severe, and South Coast is classified as extreme [2] therefore, these three areas are subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of California submitted many rules to EPA for incorporation into its SIP, including the rules being acted on in this notice. This notice addresses EPA's proposal to approve the following four rules: BAAQMD rule 8–37, Natural Gas and Crude Oil Production Facilities, which controls VOC emissions from leaking equipment at these facilities; SCAQMD rule 465, Vacuum Producing Devices or Systems, which controls VOC emissions from vacuum producing systems usually associated with refinery processes; SCAQMD rule 1123, Refinery Process Turnarounds, which controls VOC emissions resulting from the periodic shut down and emptying of refinery process units for inspection and maintenance; and VCAPCD rule 71, Crude Oil and Reactive Organic Compound Liquids, which is a definitions rule that applies to VCAPCD rule 71.1, Crude Oil Production and Separation, rule 71.2, Storage of Reactive Organic Compound Liquids, rule 71.3, Transfer of Reactive Organic Compound Liquids, and rule 71.4, Petroleum Sumps, Pits, Ponds and Well Cellars.

VCAPCD Rule 71 was submitted to EPA on April 5, 1991, and was found to be complete, pursuant to EPA's completeness criteria set forth in 40 CFR part 51, appendix V [3], on May 21, 1991. The other three rules were submitted to EPA on May 13, 1991, and were found to be complete on July 10, 1991. The rules address the control of VOCs, which contribute to the production of ground level ozone and smog. The rules were adopted as part of each district's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone, and in response to the SIP–Call and the section 182(a)(2)(A) CAAA requirement. The following is EPA's evaluation and proposed action for these four rules.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule to determine whether it meets the requirements of the CAA and EPA regulations and is consistent with EPA's policy and guidance. These requirements are found in section 110 and part D of the CAA, 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans), and the guidance referred to in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA has prepared a series of Control Technique Guideline (CTG) documents which specify the minimum requirements that a rule must contain in order to be approved into the SIP. Under the amended Act, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to SCAQMD rules 465 and 1123 is entitled "Control of Refinery Vacuum Producing Systems, Wastewater Separators and Process Unit Turnarounds," EPA document No. EPA–450/2–77–025. Two CTGs are applicable to the definitions in VCAPCD rule 71; these documents are entitled "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," EPA document No. EPA–450/2–78–047, and "Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed Roof Tanks," EPA document No. EPA–450/2–77–036. There is no CTG applicable to BAAQMD rule 8–37. Further interpretation of EPA policy is found in the Blue Book. In general, these requirements have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

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[1] Among other things, the pre-amendment guidance consists of those portions of the proposed Post–1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing Control Technique Guidelines (CTGs).

[2] The Bay Area, San Diego, and South Coast were redesignated nonattainment and classified by operation of law pursuant to sections 107(d) and 181(a) on November 15, 1990. See 56 FR 56694 (November 6, 1991).

[3] EPA has since adopted completeness criteria pursuant to section 110 (k)(1)(A) of the CAA. See 56 FR 42216 (August 26, 1991). These will replace the completeness criteria currently set forth in 40 CFR part 51, appendix V.

SCAQMD rule 465 and rule 1123, and VCAPCD rule 71 are revisions of existing SIP rules which contained deficiencies that were required to be corrected pursuant to the SIP–Call and section 182(a)(2)(A) of the CAA. BAAQMD rule 8–37 has not been previously approved into the SIP and was required to be adopted pursuant to the SIP–Call and section 182(a)(2)(A) of the CAA.

SCAQMD's submitted rule 465, Vacuum Producing Devices or Systems, was revised from the SIP approved rule to add test methods for determining control device efficiency and to delete a provision that allowed the use of equivalent control methods without EPA approval. SCAQMD's submitted rule 1123, Refinery Process Turnarounds, was revised from the SIP approved rule to add recordkeeping requirements to the rule for compliance and enforcement purposes. These changes improve the enforceability of these rules.

VCAPCD's submitted rule 71, Crude Oil and Reactive Organic Compound Liquids, was most recently revised from an earlier version of the rule that had been adopted by the District on September 26, 1989, and submitted to EPA in August, 1990. This previous version of the rule was proposed for approval by EPA on January 17, 1991 (56 FR 1754). In this notice, EPA is choosing to act on the most recent version of rule 71 rather than to finalize the previous version of the rule. Rule 71 has been substantially revised from the SIP approved rule. The rule includes the addition of twenty-four new definitions and seven revised definitions from the SIP approved rule. These additions and changes clarify the applicability and improve the enforceability of the four rules affected by these definitions.

BAAQMD's submitted rule 8–37, Natural Gas and Crude Oil Production Facilities, has not been previously approve into the SIP. This rule controls VOC emissions from leaking equipment such as valves, pumps and compressors, by prohibiting the use of this equipment if it leaks VOCs in excess of 10,000 ppm, unless the equipment is repaired in a specified time period.

EPA has evaluated the four submitted rules and has determined that they are consistent with the CAA, EPA regulations and EPA policy. Therefore, BAAQMD rule 8–37, SCAQMD rule 465 and rule 1123, and VCAPCD rule 71 are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D.

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

Regulatory Process

Under 5 U.S.C 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: February 26, 1992.

John Wise,

Acting Regional Administrator.

[FR Doc. 92–5265 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[OPP–300245; FRL–4048–9]

[RIN 2070 AC–18]

1,4-Butanediol-Methylenebis(4-Phenylisocyanate)-Poly(Tetramethylene Glycol) Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of 1,4-butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) copolymer (CAS Reg. No. 9018-04-6) when used as an inert ingredient (solid diluent; carrier) in pesticide formulations applied to animals. This proposed regulation was requested by the Fermenta Animal Health Co.

DATES: Comments, identified by the document control number [OPP-300245], must be received on or before April 6, 1992.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Kerry B. Leifer, Registration Support Branch, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: rm. 711L, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-305-5180.

SUPPLEMENTARY INFORMATION: At the request of Fermenta Animal Health Co., 10150 North Executive Hills Blvd., Kansas City, MO 64153, the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)), proposes to amend 40 CFR 180.1001(e) by establishing an exemption from the requirement of a tolerance for residues of 1,4-butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) copolymer (CAS Reg. No. 9018-04-6) when used as an inert ingredient (solid diluent; carrier) in pesticide formulations applied to animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol

dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk. The Agency has decided that the data normally required to support a proposed tolerance exemption for 1,4-butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) copolymer will not need to be submitted. The rationale for this decision is described below.

In the case of certain chemical substances which are defined as "polymers" the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) limit potential risks by identifying polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. 1,4-Butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) conforms to the definition of a polymer given in 40 CFR 723.250(b)(11) and meets the following criteria which are used to identify low-risk polymers:

1. The minimum average molecular weight of 1,4-butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) copolymer is 158,000. Substances with molecular weights greater than 400 are generally not readily absorbed through the intact skin, and substances with molecular weights greater than 1,000 are generally not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract are generally incapable of eliciting a toxic response.

2. 1,4-Butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) copolymer is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

3. 1,4-Butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) copolymer does not contain less than 32.0 percent by weight of the atomic element carbon.

4. 1,4-Butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) copolymer contains as an integral part of its composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. 1,4-Butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) copolymer does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250 (d)(3)(ii).

6. 1,4-Butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) copolymer is not a biopolymer, a synthetic equivalent of a biopolymer, or a derivative or modification of a biopolymer that is substantially intact.

7. 1,4-Butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) copolymer is not manufactured from reactants containing, other than as impurities, halogen atoms or cyano groups.

8. 1,4-Butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) copolymer does not contain reactive functional groups that are intended or reasonably anticipated to undergo further reaction.

9. 1,4-Butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) copolymer is not designed or reasonably anticipated to substantially degrade, decompose, or depolymerize.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and does not pose a risk to human health or the environment. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300245]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: February 18, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

2. In subpart D, § 180.1001(e) is amended by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * * * *		
1,4-Butanediol-methylenebis(4-phenylisocyanate)-poly(tetramethylene glycol) copolymer (CAS Reg. No. 9018-04-6); minimum molecular weight 158,000	--	Solid diluent; carrier.
* * * * *		

[FR Doc. 92-5062 Filed 3-5-92; 8:45 am]

BILLING CODE 6560-50-F

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1141

[Ex Parte No. 507]

Revision of Procedures To Calculate Interest Rates

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file Initial Comments in Response to Commission's Advance Notice of Proposed Rulemaking.

SUMMARY: In an Advance Notice of Proposed Rulemaking (ANPR) served February 5, 1992, and published in the **Federal Register** on February 6, 1992 (57 FR 4594), the Commission solicited public comments on various proposed modifications to the regulations for computing interest currently contained in 49 CFR 1141.1. The Association of American Railroads (AAR) has requested an extension of time until April 8, 1992, to file its comments. The request shall be granted. Additional time is necessary for AAR to prepare an adequate and coordinated response for the railroad industry. Any other party wishing to submit comments will also have until April 8, 1992, in which to respond.

DATES: Initial comments in response to the ANPR are due April 8, 1992.

ADDRESSES: Send an original and 10 copies of comments referring to Ex Parte No. 507 to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr., (202) 927–6187 (TDD for the hearing impaired: (202) 927–5721).

Dated: March 2, 1992.

By the Commission, Edward J. Philbin, Chairman.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–5241 Filed 3–5–92; 8:45 am]

BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 57, No. 45
Friday, March 6, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Okeechobee Dairies Best Management Practices Program; Determination of Primary Purpose of Program Payments for Consideration as Excludable From Income Under Section 126 of the Internal Revenue Code of 1954

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that all state cost-share payments made to individuals by the State of Florida under the Okeechobee Dairies Best Management Practices Program have been made primarily for the purpose of soil and water conservations, protecting or restoring the environment, and improving the quality of water entering Lake Okeechobee. This determination is made in accordance with section 126 of the Internal Revenue Code of 1954, as amended, 26 U.S.C. 126. The determination permits recipients of these cost-share payments to exclude them from gross income to the extent allowed by the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Bob Crawford, Commissioner of Agriculture, Florida Department of Agriculture and Consumer Services, The Capitol, Tallahassee, Florida 32399, or Director, Land Treatment Program Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, DC 20013 (202) 720–1870.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, 26 U.S.C. 126, provides that certain payments made to persons under state conservation programs may be excluded from the recipient's gross income for Federal income tax purposes, if the Secretary of Agriculture determines that payments are made "primarily for the purpose of soil and water conservation, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." The Secretary of Agriculture evaluates the conservation programs on the basis of criteria set forth in 7 CFR part 14, and makes a "primary purpose" determination for the payments made under each program. Before there may be an exclusion, the Secretary of the Treasury must determine that payments made under these conservation programs do not substantially increase the annual income derived from the property benefited by the payments.

One of Florida's water quality improvement programs establishes treatment requirements for concentrated animal feeding operations and for dairy farms in the Lake Okeechobee Drainage Basin. The program is set forth in Chapter 17–670 of the Florida Administrative Code (F.A.C.). The rules implement and are authorized by Florida Statutes s.403.021, s.403.062, s.403.087, s.403.088, s.403.804 (1989), and by s.403.061 (Supp. 1990). Similar provisions were previously set forth in Chapter 17–6, F.A.C. The purpose of Rules 17–670.500 through 17–670.540, F.A.C. is to control pollution of waters of the state due to the discharge of wastewater and runoff from dairy farms in the Lake Okeechobee Drainage Basin to surface and ground water. The objectives of the program are met by construction of specific engineered structures on private farmland and through cost shared land treatment or management practices. The landowner or operator contracts with the Florida Department of Agriculture and Consumer Services for the cost-share assistance. The program objectives are to be achieved, and cost sharing is available for planning and installing various land treatment or management measures.

By June 3, 1989, all dairy farms in existence prior to June 3, 1987, were to submit to the Department of Environmental Regulation a management plan prepared by the Soil Conservation Service or a Florida licensed professional engineer that will bring the dairy farm into compliance with the requirements of Chapter 17–670, F.A.C. An application for a contractor or operator permit must also be submitted which shall include the ground water monitoring program required by Rule 17–670.530 F.A.C.

In addition to the foregoing, the State of Florida has determined that program objectives would also be met by the relocation of all or some of the dairies. Accordingly, the program provides compensation to dairy farmers in the Lake Okeechobee Drainage Basin who choose to close their operation and restrict the property from further use as a dairy. However, the determination of primary purpose set forth in this notice does not apply to such relocation and restricted use payments.

Procedural Matters

The authorizing legislative, regulations, and operating procedures regarding the Okeechobee Dairies Best Management Practices Program have been examined using the criteria set in 7 CFR part 14. The Department of Agriculture has concluded that the cost-share payments made for implementation of best management practices under this program are made to provide financial assistance to eligible persons primarily for the purpose of soil and water conservation, protecting or restoring the environment, and improving the quality of water entering Lake Okeechobee.

A "Record of Decision, Okeechobee Dairies Best Management Practices Program, Primary Purpose Determination for Federal Tax Purpose" has been prepared and is available upon request from the Director, Land Treatment Program Divsion, Soil Conservation Service, P.O.Box 2890, Washington DC 20013, or the Florida Commissioner of Agriculture, Florida Department of Agriculture and Consumer Services, The Capitol, Tallahassee, Florida 32399.

Determination

As required by section 126(b) of the Internal Revenue Code of 1954, as amended, I have examined the authorizing legislation, regulations, and operating procedures regarding the Okeechobee Dairies Best Management Practices Program. In accordance with the criteria set out in 7 CFR part 14, I have determined that all cost-share payments for implementation of best management practices made under this program are primarily for the purpose of soil and water conservation, protecting

or restoring the environment, and improving the quality of water entering Lake Okeechobee. However, the determination of primary purpose set forth in this notice does not apply to such relocation and restricted use payments received by dairy farmers who choose to close their operation. Subject to further determination by the Secretary of the Treasury, this determination permits payment recipients to exclude from gross income, for Federal income tax purposes, all or part of such cost-share payments made under said program.

Signed at Washington, DC on March 3, 1992.

Edward Madigan,

Secretary.

[FR Doc. 92–5275 Filed 3–5–92; 8:45 am]

BILLING CODE 3410–16–M

Food and Nutrition Service

Child Nutrition Programs—Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the Department's annual adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced price meals or free milk for the period from July 1, 1992 through June 30, 1993. These guidelines are used by schools, institutions, and centers participating in the National School Lunch Program, School Breakfast Program, Special Milk Program for Children, Child and Adult Care Food Program and Commodity School Program. The annual adjustments are required by section 9 of the National School Lunch act. The guidelines are intended to direct benefits to those children most in need and are revised annually to account for increases in the Consumer Price Index.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302, or by phone at (703) 305–2618.

SUPPLEMENTARY INFORMATION: This Notice has been reviewed under Executive Order 12291 and has been classified not major. This Notice will not have an annual effect on the economy of $100 million or more, nor will it result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. This action will not have 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.

These programs are listed in the Catalog of Federal Domestic Assistance under No. 10.553, No. 10.555, No. 10.556 and No. 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and the final rule related notice published at 48 FR 29114, June 24, 1983.)

This Notice imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

Background

Pursuant to sections 9(b)(1) and 17(c)(4) of the National School Lunch Act (42 U.S.C. 1758(b)(1) and 1766(c)(4)), and sections 3(a)(6) and 4(e) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(6) and 1773(e)), the Department annually issues the Income Eligibility Guidelines for free and reduced price meals in the National School Lunch Program (7 CFR part 210), School Breakfast Program (7 CFR part 220), Child and Adult Care Food Program (7 CFR part 226), and Commodity School Program (7 CFR part 210), and issues the guidelines for free milk in the Special Milk Program for children (7 CFR part 215). These eligibility guidelines are based on the Federal income poverty guidelines and are stated by household size.

The Department requires schools and institutions which charge for meals separately from other fees to serve free meals to all children from any household with income at or below 130 percent of the poverty guidelines. The Department also requires such schools and institutions to serve reduced-price meals to all children from any household with income higher than 130 percent of the poverty guidelines, but at or below 185 percent of the poverty guidelines. Schools and institutions participating in the Special Milk Program may, at local option, serve free milk to all children from any household with income at or below 130 percent of the poverty guidelines.

Definition of Income

"Income," as the term is used in this Notice, means income before any deductions such as income taxes, social security taxes, insurance premiums, charitable contributions and bonds. It includes the following: (1) Monetary compensation for services, including wages, salary, commissions or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) social security; (5) dividends or interest on savings or bonds or income from estates or trusts; (6) net rental income; (7) public assistance or welfare payments; (8) unemployment compensation; (9) government civilian employee or military retirement, or pensions or veterans payments; (10) private pensions or annuities; (11) alimony or child support payments; (12) regular contributions from persons not living in the household; (13) net royalties; and (14) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which would be available to pay the price of a child's meal.

"Income," as the term is used in this Notice, does not include any income or benefits received under any Federal programs which are excluded from consideration as income by any legislative prohibition. Furthermore, the value of meals or milk to children shall not be considered as income to their households for other benefit programs in accordance with the prohibitions in section 12(e) of the National School Lunch Act and section 11(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1760(e) and 1780(b)).

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 1992 through June 30, 1993. The Department's guidelines for free meals and milk and reduced-price meals were obtained by multiplying the 1992 Federal income poverty guidelines by 1.30 and 1.85, respectively, and by rounding the result upward to the next whole dollar. Weekly and monthly guidelines were computed by dividing annual income by 52 and 12, respectively, and by rounding upward to the next whole dollar.

INCOME ELIGIBILITY GUIDELINES

[Effective from July 1, 1992 to June 30, 1993]

Household size	Federal Poverty Guidelines			Reduced Price Meals—185%			Free Meals—130%		
	Annual	Month	Week	Annual	Month	Week	Annual	Month	Week
48 Contiguous United States, District of Columbia, Guam and Territories									
1	6,810	568	131	12,599	1,050	243	8,853	738	171
2	9,190	766	177	17,002	1,417	327	11,947	996	230
3	11,570	965	223	21,405	1,784	412	15,041	1,254	290
4	13,950	1,163	269	25,808	2,151	497	18,135	1,512	349
5	16,330	1,361	315	30,211	2,518	581	21,229	1,770	409
6	18,710	1,560	360	34,614	2,885	666	24,323	2,027	468
7	21,090	1,758	406	39,017	3,252	751	27,417	2,285	528
8	23,470	1,956	452	43,420	3,619	835	30,511	2,543	587
For each add'l family member add	+2,380	+199	+46	+4,403	+367	+85	+3,094	+258	+60
Alaska									
1	8,500	709	164	15,725	1,311	303	11,050	921	213
2	11,480	957	221	21,238	1,770	409	14,924	1,244	287
3	14,460	1,205	279	26,751	2,230	515	18,798	1,567	362
4	17,440	1,454	336	32,264	2,689	621	22,672	1,890	436
5	20,420	1,702	393	37,777	3,149	727	26,546	2,213	511
6	23,400	1,950	450	43,290	3,608	833	30,420	2,535	585
7	26,380	2,199	508	48,803	4,067	939	34,294	2,858	660
8	29,360	2,447	565	54,316	4,527	1,045	38,168	3,181	734
For each add'l family member add	+2,980	+249	+58	+5,513	+460	+107	+3,874	+323	+75
Hawaii									
1	7,830	653	151	14,486	1,208	279	10,179	849	196
2	10,570	881	204	19,555	1,630	377	13,741	1,146	265
3	13,310	1,110	256	24,624	2,052	474	17,303	1,442	333
4	16,050	1,338	309	29,693	2,475	572	20,865	1,739	402
5	18,790	1,566	362	34,762	2,897	669	24,427	2,036	470
6	21,530	1,795	415	39,831	3,320	766	27,989	2,333	539
7	24,270	2,023	467	44,900	3,742	864	31,551	2,630	607
8	27,010	2,251	520	49,969	4,165	961	35,113	2,927	676
For each add'l family member add	+2,740	+229	+53	+5,069	+423	+98	+3,562	+297	+69

Authority: (42 U.S.C. 1758(b)(1))

Dated: March 3, 1992.

George A. Braley,

Associate Administrator.

[FR Doc. 92–5198 Filed 3–5–92; 8:45 am]

BILLING CODE 3410–30–M

Forest Service

Southwestern Region Arizona, New Mexico, West Texas and Oklahoma Legal Notice of Appealable Decisions

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: On April 9, 1990, the Southwestern Region published a list of newspapers in which decisions would be published in accordance with 36 CFR 217.5(d). This list must be updated twice annually.

The April 9, 1990 Southwestern Region list will remain unchanged except for the Gila National Forest and Districts. Gila National Forest and District Decisions will be published in the legal notice section of the newspapers listed in the Supplemental Information Section of this notice.

FOR FURTHER INFORMATION CONTACT: Pat Jackson, Regional Appeals Coordinator, Southwestern Region, 517 Gold Avenue SW., Albuquerque, New Mexico 87102, Area Code 505–842–3305.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Southwestern Region will give legal notice of decision subject to appeal under 36 CFR part 217 in the following newspapers which are listed by Forest Service administrative unit. Where more than one newspaper is listed for any unit, the first newspaper listed is the primary newspaper which shall be used to constitute legal evidence that the agency has given timely and constructive notice of decisions that are subject to administrative appeal. As provided in 36 CFR 217.5(d), the timeframe for appeal shall be based on the date of publication of a notice of decision in the primary newspaper.

Gila National Forest

Notice of Forest Supervisor Decisions

Silver City Daily Press, published Monday-Saturday in Silver City, Grant County, New Mexico.

Notice of District Ranger Decisions

Black Range District: The Herald, published in Truth or Consequences Weekly on Thursday, Sierra County, New Mexico.

Luna District: Silver City Daily Press, published Monday-Saturday in Silver City, Catron County, New Mexico.

Quemado District: Silver City Daily Press, published Monday-Saturday in Silver City, Catron County, New Mexico.

Reserve District: Silver City Daily Press, published Monday-Saturday in Silver City, Catron County, New Mexico.

Glenwood District: Silver City Daily Press, published Monday-Saturday in Silver City, Grant County, New Mexico.

Mimbres District: Silver City Daily Press, published Monday-Saturday in Silver City, Grant County, New Mexico.

Silver City District: Silver City Daily Press, published Monday-Saturday in Silver City, Grant County, New Mexico.

Wilderness District: Silver City Daily Press, published Monday-Saturday in Silver City, Grant County, New Mexico.

Dated: February 11, 1992.

Arthur S. Briggs,

Acting Deputy Regional Forester, Resources.

[FR Doc. 92–5212 Filed 3–5–92; 8:45 am]

BILLING CODE 3410–11–M

North Fork of Illinois Bayou Proposed Municipal and Industrial Water Supply Dam and Reservoir

AGENCY: Forest Service, USDA.

ACTION: Cancellation of notice of intent to prepare an environmental impact statement.

SUMMARY: The City Corporation of Russellville, Arkansas, has withdrawn its request from the Ozark National Forest for an authorization to use approximately 1,400 acres of National Forest System land for the purpose of constructing a municipal supply reservoir and dam on the North Fork of Illinois Bayou.

The Notice of Intent, published in the **Federal Register** of June 8, 1989, is hereby rescinded (54 FR 24574–24575).

FOR FURTHER INFORMATION CONTACT: Direct questions about this notice to John B. Fortin, Planning Staff Officer, Ozark-St. Francis National Forests, 605 West Main, Box 1008, Russellville, AR 72801, phone 501–968–2354.

Dated: March 2 1992.

Lynn C. Neff,

Forest Supervisor.

[FR Doc. 92–5250 Filed 3–5–92; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Exporters' Textile Advisory Committee; Open Meeting

A meeting of the Exporters' Textile Advisory Committee will be held on Thursday, March 26, 1992. The meeting will be from 2 p.m. to 4 p.m. in room 1414, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

The Committee advises Department of Commerce officials on textile and apparel export issues.

Agenda: Report on conditions in the export market, review of Office of Textiles and Apparel export expansion activities, and other business.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes, contact William Dawson (202/377–5155).

Dated: March 3, 1992.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–5269 Filed 3–5–92; 8:45 am]

BILLING CODE 3510–DR–F

National Oceanic and Atmospheric Administration

[Docket No. 920254–2054]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of intent to prepare a Supplemental Environmental Impact Statement (SEIS) and notice of scoping process.

SUMMARY: NOAA announces its intention to prepare an SEIS to assess the potential effects of controlling access to groundfish and Pacific halibut fishery resources through an individual quota program. The Pacific Fishery Management Council (Council) is considering amending the Fishery Management Plan for Pacific Coast Groundfish and recommending changes to the regulations affecting U.S. fishing for Pacific halibut off the coasts of Washington, Oregon, and California [International Pacific Halibut Commission (IPHC) Area 2A].

In addition, NOAA formally announces a public process for determining the scope of issues to be addressed and for identifying the significant issues related to controlling access to public fishery resources. Scoping sessions will be held on the dates and locations specified below. The intended effect of this notice is to alert the interested public of the commencement of a scoping process and to provide for public participation. This action is necessary to comply with Federal environmental documentation requirements.

DATES: Scoping comments are invited through April 3, 1992. Additionally, the Council will accept testimony at its March 9–13, 1992, meeting in Seattle, Washington, and at its April 7–10, 1992, meeting in San Francisco, California.

ADDRESSES: Address scoping comments and requests for additional information on times and locations of meetings to Lawrence D. Six (Executive Director, Pacific Fishery Management Council), 2000 Southwest First Avenue, suite 420, Portland, Oregon, 97201, 503–326–6352.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Director, Northwest Region, NMFS), 206–526–6150; E. Charles Fullerton (Director, Southwest Region, NMFS), 213–514–6196; or Lawrence D. Six (Executive Director, Pacific Fishery Management Council), 503–326–6352.

SUPPLEMENTARY INFORMATION:

Background

The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved on January 4, 1982 (47 FR 43964; October 5, 1982), and implementing regulations appear at 50 CFR parts 611 and 663. Regulations governing the Pacific halibut fishery are found at 50 CFR part 301.

At its September 18–20, 1991, meeting, the Council voted to recommend that the Secretary of Commerce (Secretary) adopt a license limitation program for Pacific coast groundfish. If approved by the Secretary, this program would require permits for groundfish trawl, longline, and fishpot vessels to participate in the limited access segment of the commercial groundfish fishery, as of January 1, 1994. The Council also has authority to develop regulations, including limited access regulations, governing Pacific halibut in IPHC Area 2A. At its November 12–15, 1991, meeting in Millbrae, California, the Pacific Fishery Management Council adopted November 13, 1991, as a control date that may be used in determining priorities for issuance and distribution of shares of individual quotas (IQs) in a potential IQ-based limited access system for Pacific coast groundfish fisheries and the IPHC Area 2A Pacific halibut fishery (57 FR 4394–4395; February 5, 1992). At that time, the Council also initiated a public scoping process in anticipation of the drafting of an SEIS in support of an FMP amendment and regulations on IQs. Announcement of the scoping process has been distributed coastwide and is the purpose of this **Federal Register** notice.

The Problem

Because the groundfish fishery is managed under an open access system, the fleet's harvesting capacity and total effort have remain unchecked. As other fisheries grow increasingly overcrowded relative to available harvest, it becomes more likely that capacity will be redirected to the Pacific Coast groundfish fishery when downturns occur in other fisheries. Shifts in other factors, such as relative groundfish prices and harvest costs (increasing relative profits) may also attract new entrants. With most species in the Pacific Coast groundfish fishery already fully utilized, and excess capacity already present, the possibility for entrance of more vessels into the fishery

threatens to exacerbate current conservation problems. In fisheries with excess effort, regulations designed to meet conservation goals generally interfere with day-to-day vessel operations and reduce vessel efficiency.

Groundfish and halibut regulations have become increasingly restrictive. In 1991, the difficulty of meeting the trip limits resulted in a compliance rate of only about 60 percent. For 1992, the Council adopted a cumulative trip limit for most species that may reduce discards but will further increase enforcement costs. Additionally, rockfish trip frequency limits will be in place for the first time in southern areas, and mesh size for roller gear will be increased to 4.5 inches coastwide. Traditional regulations have many adverse impacts in such areas as fleet costs, resource utilization, safety, and enforcement costs and effectiveness. The halibut fishery is also overcapitalized. In 1991, the fishermen exceeded their commercial quota in Area 2A during one 10-hour fishing period.

These problems are common to many fisheries managed under open access. Profits in the harvesting sector attract increased fishing effort (e.g., vessels, gear, labor). While free entry and exit of firms is common in most sectors of the economy, the fishery sector differs in that the raw materials (fish) are a public resource provided at no cost to the harvesters. As a result, the open access fishery tends to use excess inputs (e.g., fuel, vessels, gear, labor) beyond those technically necessary to produce the output of allowed levels of harvested fish, which results in the dissipation of profits (rents). This is an inefficient use of capital, that is, the excess capital would be used more productively in other sectors of the economy. Moreover, investment is directed towards increasing effort in an attempt by individual fishermen to harvest more fish more quickly than other fishermen. As a result, fishing seasons are shortened, safety risks are increased, bycatch mortality may be increased, gear conflicts occur, fishery managers are pressured to increase harvest quotas or not to reduce them, product quality is reduced, more management controls on when, where and how fish may be harvested are necessary and net benefits to the nation are reduced.

The Council has recognized these problems in the groundfish and halibut fisheries and has recommended a license limitation program for implementation in the groundfish fishery. It is anticipated that this license limitation program would begin to control capacity and generate net national benefits as a result. However, more could be done to control excessive investment in the fishery. An individual quota program may complement a license limitation program in a way that will bring more benefits than either program alone.

The public is hereby notified that NMFS, in cooperation with the Council, intends to prepare an SEIS on the potential effects of amendment of the groundfish FMP and halibut fishing regulations to provide additional control over access to the groundfish and halibut fisheries resources in the exclusive economic zone (EEZ) off the Pacific Coast. This action is not intended to prejudice a decision by the Council on whether to recommend to the Secretary any change in the FMPs or halibut regulations, but is designed to provide the Council with the best information available on which to base such a decision.

Actions and Possible Alternatives under Consideration

The Council is considering amending the Groundfish FMP and recommending changes to the halibut fishery regulations to provide authority to control access to the Pacific groundfish and halibut resources off the Pacific Coast. Some of the major alternatives under consideration include:

(1) The status quo in which open access management of these fisheries would continue, or, if approved by the Secretary, a license limitation program that controls access to a large portion of the groundfish resource.

(2) IQs covering all or a portion of the groundfish fishery. (Under IQs the right to harvest a portion of the total quota is allocated to individual fishermen or vessels.)

(3) IQs covering all or a portion of the groundfish fishery and the halibut fishery.

Scoping Process

All persons affected by or otherwise interested in a controlled access scheme for all or part of the Pacific groundfish and Pacific halibut resources under the Council's jurisdiction through a system of individual quotas are invited to participate in determining the scope and significant issues to be analyzed in the SEIS by submitting written comments to the above address. Scope consists of the range of actions, alternatives, and impacts to be considered in the SEIS. Actions include those which may be closely related, cumulative, or similar. Alternatives include the no action alternative and other reasonable courses of action. Impacts may be direct, indirect, and cumulative. The scoping process also will identify and eliminate from detailed study issues that are not significant or that have been covered in prior environmental review. This scoping process will end on April 3, but reopen for testimony at the April Council meeting. In addition to written comment invited by this notice, opportunity will be provided for testimony at two Council meetings:

—Seattle, Washington, at the Airport Red Lion Hotel the week of March 9.

—San Francisco, California, at the Airport Clarion Hotel, the week of April 6.

More information on these meetings may be obtained from Council staff at the address and telephone number listed above.

Timing of the Analysis and Tentative Decisionmaking Schedule

After receiving public comment at its April meeting the Council is scheduled to identify alternatives for analysis and develop a timetable for development of the amendment and SEIS. The exact time schedule will depend on the scope of identified alternatives.

Dated: March 2, 1992.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92–5220 Filed 3–5–92; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Change in Public Meeting Date and Location

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The date and location for the public meeting of the Western Pacific Fishery Management Council's Pelagic Advisory Panel, originally published in the **Federal Register** at 57 FR 7369, on March 2, 1992, has been changed, as follows. All other information originally published on March 2, 1992, remains unchanged.

Change From: March 11, 1992, at the McCoy Pavilion, Ala Moana Park, 1201 Ala Moana Boulevard, Honolulu, HI.

To: March 13, 1992, at the Department of Land and Natural Resources Boardroom, Kalanimoku Building, 1151 Punchbowl Street, Honolulu, HI.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: March 2, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-5200 Filed 3-5-92; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Fishery Management Council; Change in Public Meeting Date

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The date for the public meeting of the Western Pacific Fishery Management Council's Select Committee (Committee) for the Resolution of Gear Conflict and Longline Area Closure Hardships, originally published in the Federal Register at 57 FR 6714, on February 27, 1992, has been changed. The new meeting date for the Committee is March 13, 1992. All other information originally published on February 27, 1992, remains unchanged.

FOR FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523-1368.

Dated: March 2, 1992.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-5201 Filed 3-5-92; 8:45 am]

BILLING CODE 3510-22-M

[Docket No. 920245-2045]

Condition and Restriction To Be Included with Certain Permits for the Bering Sea and Aleutian Islands, Gulf of Alaska, and Pacific Coast Groundfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Permit condition and restriction.

SUMMARY: NMFS intends to include a condition and restriction with all foreign fishing permits that may be issued in 1992 to authorize fishing activities in the Bering Sea and Aleutian Islands (BSAI), Gulf of Alaska (GOA), and/or Pacific Coast Groundfish (PCG) fishery management areas. Vessels holding permit authorizations in these fisheries will be provided from conducting activities within the Exclusive Economic Zone (EEZ) of the United States that would support foreign fisheries prosecuted in an area of the Central Bering Sea known as the "donut hole."

This action is necessary for the fishery conservation and management of certain Alaska pollock stocks and deemed appropriate by the Secretary. It is therefore, in accord with paragraph (F) of section 204(b)(7) of Magnuson Fishery Conservation and Management Act and paragraph (e)(1)(v) of 50 CFR 611.3. The action will be implemented immediately to prevent substantial harm to Alaska pollock stocks originating in the Bogoslof Islands area of the EEZ. Comments may be submitted on this notice.

DATES: Comments must be received on or before April 6, 1992.

ADDRESSES: Send comments to the Operations Support and Analysis Division (F/CM1), Office of Fisheries Conservation and Management, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910; or telex comments to 467856 US COMM FISH CI. Mark any envelope "1992 Permit Condition."

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik, (301) 427-2337.

SUPPLEMENTARY INFORMATION: Significant foreign fisheries have been conducted in an area of the Central Bering Sea that lies seaward of, but is fully enclosed by, the EEZ of the United States and the Economic Zone of the Russian Republic. Trawling vessels of certain nations having governing international fishery agreements with the United States, namely Japan, the Republic of Korea, the People's Republic of China, and the Republic of Poland are among those that take Alaska pollock in this fishery.

The United States believes most Alaska pollock taken in the fishery originate within the EEZ and on the Alaskan Continental Shelf, in the Area of the Bogoslof Islands. At a recently concluded meeting of delegates of the above nations with delegates from the former Soviet Union and the United States, there was agreement that substantial catch declines have occurred in the "donut hole" fishery, from a peak of 1.4 million metric tons (mt) in 1989 to only 260,000 mt as of the end of the third quarter of 1991. It was also agreed that available information indicates that the pollock population in the Central Bering Sea is most likely to decline in the coming year and that there will be a significant lag of at least 4-7 years between the development of a strong yearclass and its availability in the Central Bering Sea.

This information, together with the belief that the source of the Central Bering Sea fishery is the Bogoslof Islands Pollock stock, has raised serious and immediate concerns of the conservation and management of this resource. The North Pacific Fishery Management Council has recommended action to close U.S. fisheries conducted on the Bogoslof stock in the BSAI management areas. It is also appropriate that NMFS take any available actions to promote the conservation and management of this resource.

Foreign vessels that fish in the Central Bering Sea use the protected waters within the EEZ of the Bering Sea to transship their production from the "donut hole," as well as for other activities in support of their harvesting operations, such as bunkering. These activities can be conducted in the EEZ only under authorizations contained in foreign fishing permits issued by NMFS. Although consideration had been given in 1990 and in 1991 to denying such authorizations, the step was not taken because a number of U.S. fishing enterprises relied on that production for their markets and provided other services in support of the harvesting operations.

In view of new evidence of declining trends in the resources, NMFS has at this time reconsidered its position on that matter. It believes that reasonable action must be taken immediately to conserve the resource, and that discontinuing the privilege provided to foreign vessels to transship "donut hole" production in the EEZ and to conduct other related support activities would be an appropriate step. United States enterprises that currently depend on foreign production of Alaska pollock are advised to consider alternative sources in view of the decline in the pollock population and the projected lag of at least 4 to 7 years until the availability of a strong yearclass in the Central Bering Sea. Since this action is taken to prevent substantial harm to the resource, the established dependence of U.S. enterprises on Alaska pollock production from the "donut hole" cannot be a factor determining this decision.

Applications have been submitted by several countries for permit authorizations for 1992 fishing operations in the BSAI, GOA, and PCG management areas that may involve the transshipment of foreign production or the provision of other support for vessels harvesting fish outside the EEZ (Activity Code 8 permit authorizations). A number of these applications apparently contemplate activities in the EEZ to support the applicant country's, or another country's, "donut hole" operations. The appropriate officials of the applicant countries should, at this time, either revise the earlier applications accordingly or withdraw

such applications made for the exclusive purpose of such transshipment or support. The applications may be revised by letter to the Assistant Administrator for Fisheries but should specifically identify the affected vessels, by name and International Radio Call Sign (IRCS), and, if all vessel applications are not withdrawn, indicate the nature of the activities to be conducted in the EEZ by the remaining vessels (i.e., in lieu of "donut hole" support.) On receipt of such a letter, NMFS will initiate a refund of the permit application fees paid for vessels that are withdrawn. Applications requesting authorizations to support operations involving fish taken seaward of the EEZ that are filed after the date of publication of this notice will not be considered unless they specify where such fish will have been harvested. All 1992 permit authorizations issued for fishing activities in the three fisheries will be conditioned and restricted to prohibit any operations supporting the foreign "donut hole" fisheries.

Dated: March 2, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservatrion and Management, National Marine Fisheries Service.

[FR Doc. 92-5199 Filed 3-5-92; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 6, 1992.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and service to the Government.

2. The action will result in authorizing small entities to furnish the commodity and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodity and service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodity and service to the Procurement List:

Commodity

Line, Multi-Loop, 1670-01-062-6309

Service

Janitorial/Custodial, U.S. Army Detroit Arsenal Complex, Warren, Michigan

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-5270 Filed 3-5-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 6, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and services to the Procurement List:

Commodities

Strap, Webbing, 5340-00-889-5595 (Remaining Government Requirement).

Table, Folding Legs, Field, 7105-00-269-9275 (Remaining 50% of Government's requirement).

Cover, Helmet, White, 8415-01-144-1860, 8415-01-144-1861.

Services

Administrative Services, Environmental Protection Agency, remaining Washington, DC metro area locations.

Commissary Warehousing, Griffis Air Force Base, New York.
Janitorial/Custodial, Marine Corps Logistics Base, Albany, Georgia.
Janitorial/Custodial, Rattlesnake National Recreation Area, Maclay Flat and Fort Fizzle, Missoula Ranger District, Missoula, Montana.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-5271 Filed 3-5-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by a nonprofit agency employing persons with severe disabilities.

EFFECTIVE DATE: April 6, 1992.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On December 13, 1991 and January 17, 1992, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (56 FR 65047 and 57 FR 2081) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning the capability of a qualified nonprofit agency to provide the services at a fair market price and the impact of the addition on the current or most recent contractor, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Janitorial/Custodial, Beale Air Force Base, California (excluding Hospital and Commissary).
Janitorial/Custodial, U.S. Army Reserve Center, 2800 West 15th Street, Texarkana, Texas.
Janitorial/Custodial, U.S. Army Reserve Center, 6300 West 7th Street, Texarkana, Texas.
Mailroom Service, U.S. Army Information Systems Command, Aldelphi, Maryland.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-5272 Filed 3-5-92; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Proposed Beach Restoration Project; From Asbury Park to Manasquan, Monmouth County, NJ

February 27, 1992.

AGENCY: Corps of Engineers, Army, DOD.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: The New York District of the U.S. Army Corps of Engineers plans to begin preparation of a Draft Environmental Impact Statement (DEIS) for proposed measures to reduce storm damage extending from the north limit of the Borough of Asbury Park to the north jetty at Manasquan Inlet, Monmouth County, New Jersey. This project is necessary due to the continual erosion leading to a decrease in beach width and a loss of beach material during severe storms and hurricianes. Due to the erosion and the lack of a sufficiently high beach, berm or dune system, residential and commercial developments and properties have become increasingly susceptible to storm damage from flooding and wave attack. This notice was previously issued on April 7, 1988 and is now being updated to include revised and current information.

FOR FURTHER INFORMATION CONTACT: ATTN: Clifford S. Jones III, Project Manager, (212) 264-9077, ATTN: Mark H. Burlas, Project Biologist, (212) 264-2663, Planning Division, Corps of Engineers, New York District, 26 Federal Plaza, New York, New York 10278-0090.

SUPPLEMENTARY INFORMATION: This action was authorized by the River and Harbor Act of July 3, 1958 in accordance with reports printed in House Document No. 332, 85th Congress, Second Session.

1. Location and Description of Proposed Action:

The project area is located along the coast of the Atlantic Ocean and lies within Monmouth County, New Jersey, encompassing the Boroughs of Avon-By-The-Sea, Bradley Beach, Belmar, Manasquan, Ocean Grove, Sea Girt and Spring Lake and the City of Asbury Park (Figures 1 and 2). The project viability report, dated November 1989, identified a potential solution for storm damage protection consisting of constructing a 100 foot wide berm at an elevation of +8.4 feet National Geodetic Vertical Datum (NGVD), which is equivalent to +10.0 feet Mean Low Water (MLW) and a 2 foot berm cap. The project plan is designed to endure a 73 year storm event and have a 50 year economic life that would undergo renourishment of beach fill every six years. Beach nourishment would be accomplished by mechanically transporting sand from proposed offshore borrow areas for placement onto a beach to widen the dry beach and restore and stabilize the nearshore profile. In addition to beach nourishment, the plan includes modification of some existing groins to allow transport of littoral material.

2. Reasonable Alternative Actions:

The viability report's optimal plan has a design berm height of +8.4 feet NGVD, berm width of 100 with a 2 foot berm cap and the modification of some existing groins. The "No Action" alternative failed to meet the needs and objectives of the subject project. The construction of groins, seawalls, revetments and breakwaters independently or in combination with beach nourishment failed to meet optimal cost-benefit justification.

3. Scoping Process

A. Public Involvement

A copy of the DEIS will be distributed to all appropriate public and private agencies and organizations with the intent of receiving opinions from interested agencies, organizations and/or individuals. A Public Notice,

indicating availability of the DEIS for review, will be issued to public and private agencies that are on the Corps of Engineers Operation Division's mailing list. Additions to this mailing list can be made by notifying the project EIS coordinator. Coordination is being conducted with federal and state agencies to identify significant environmental concerns and plan beneficial mitigation.

B. Significant Issues Requiring In-Depth Analysis

1. Water Quality Impacts.
2. Archaeological and Cultural Resources Impacts.
3. Aquatic and Terrestrial Resource Impacts.
4. Shorebird Populations.
5. Recreational Impacts.
6. Longshore Sand Transport.

C. Environmental Review and Consultation

Review will be conducted as outlined in the Council on Environmental Quality regulations dated November 29, 1983 (40 CFR parts 1500–1508) and U.S. Army Corps of Engineers regulation ER 200–2–2 dated March 4, 1988.

4. Scoping Meeting

Scoping meeting will not be scheduled.

5. Estimated Date of DEIS Availability

September 1992.

Joseph R. Vietri,

Assistant Chief, Planning Division.

[FR Doc. 92–5179 Filed 3–5–92; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF EDUCATION

Indian Education National Advisory Council; Meeting

AGENCY: National Advisory Council on Indian Education, Education.

ACTION: Notice of partially closed meeting.

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

DATES AND TIME: March 17–20, 1992, from 9 a.m. to approximately 5 p.m. each day. The open portion of the meeting will be held on March 20, 1992 from 2 p.m. to 5 p.m.

ADDRESSES: The closed portion of the meeting will be held at the Vista International Hotel, 1400 M St. NW., Washington, DC 20005, (202) 429–1700. The open portion of the meeting will be held at the National Advisory Council on Indian Education conference room, located at 330 C St. SW., room 4099C, Washington, DC 20202–7556, (202) 732–1353.

FOR FURTHER INFORMATION CONTACT: Robert K. Chiago, Executive Director, National Advisory Council on Indian Education, 330 C Street, SW., room 4072, Switzer Building, Washington, DC 20202–7556. Telephone: 202/732–1353.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 5342 of the Indian Education Act of 1988 (25 U.S.C. 2642). The Council is established to, among other things, assist the Secretary of Education in carrying out responsibilities under the Indian Education Act of 1988 (Part C, title V. Pub. L. 100–297) and to advise Congress and the Secretary of Education with regard to federal education programs in which Indian children or adults participate or from which they can benefit.

Under section 5342(b)(2) of the Indian Education Act, the Council is directed to review applications for assistance and to make recommendations to the Secretary of Education with respect to their approval. The duly authorized Proposal Review Committee of the Council will meet in closed session starting at approximately 9 a.m. and will end at approximately 5 p.m. during both proposal review sessions. The March 17–18 agenda includes reviewing grant applications for assistance under programs authorized by subparts 1, 2, and 3 of the Indian Education Act, including applications for (1) Discretionary Grants to Indian Controlled Schools; (2) Educational Services for Indian Children; and (3) Educational Services for Indian Adults. The March 19–20 agenda will include reviewing grant applications from individuals for assistance under the fellowship program authorized by subpart 2 of the Indian Education Act.

The discussion during the review process may disclose sensitive information about applicants, qualifications of proposed staff, funding levels and requests, and the names and comments of expert reviewers. Such discussion would disclose commercial or financial information obtained from a person or organization which is privileged or confidential and would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (4) and (6) of section 552b(c) of the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b(c)).

In addition to the proposal review, the Annual Report Committee of the National Advisory Council on Indian Education will meet in open session on March 20, 1992 from 2 p.m. to 5 p.m. at 330 C St. SW., in room 4099C, Washington, DC to review the Annual Report to the U.S. Congress for fiscal year 1991.

The public is being given less than 15 days notice due to problems in scheduling these meetings. A summary of activities of the closed meeting which are informative to the public consistent with the policy of title 5 U.S.C. 552b and proceedings from the open portion of the meeting shall be available for public inspection within 14 days of the meeting at the office of the National Advisory Council on Indian Education located at 330 C Street SW., room 4072, Washington, DC 20202–7556.

Dated: March 3, 1992.

Robert K. Chiago,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 92–5324 Filed 3–5–92; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Energy Information Administration

Forms CE–63A/B, "Annual Solar Thermal Collector Manufacturers Survey" and "Annual Photovoltaic Module/Cell Manufacturers Survey"

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of the proposed extension of the Forms CE–63A/B, "Annual Solar Thermal Collector Manufacturers Survey" and "Annual Photovoltaic Module/Cell Manufacturers Survey," and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA), as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1980, Public Law 96–511, 44 U.S.C. 3501 *et seq.*), conducts a presurvey consultation program to provide the general public and other Federal agencies the opportunity to comment on continuing or proposed new data collection forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is

minimized, data collection forms are clearly understood, and that the impact of collection requirements on respondents can be properly assessed. Currently, EIA is soliciting comments concerning the proposed extension of the Forms CE–63A/B, "Annual Solar Thermal Collector Manufacturers Survey" and "Annual Photovoltaic Module/Cell Manufacturers Survey."

DATES: Written comments must be submitted on or before April 6, 1992. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact person listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Doug Bonnar, EI–522, Energy Information Administration, U.S. Department of Energy, Washington, DC 20585. Phone: (202) 254–5560.

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

SUPPLEMENTARY INFORMATION:

I. Backgound.
II. Current Actions.
III. Request for Comments.

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. 93–275) and the Department of Energy Organization Act (Pub. L. 95–91), the Energy Information Administration is obliged to carry out a comprehensive and integrated energy data and information program for the collection, evaluation, assembly, analysis, and dissemination of data and information relating to energy resource reserves, production, demand, technology and relevant economic and statistical information relating to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

Form CE–63A collects data on solar thermal collector shipments, solar thermal systems, and solar-related manufacturing, marketing, and geographic information from companies in the United States that are engaged in manufacturing or importing solar thermal collectors. Solar thermal shipments are in terms of square feet.

Form CE–63B collects data on photovoltaic cell and module shipments, photovoltaic systems, and photovoltaic-related manufacturing and marketing information from companies in the United States that are engaged in manufacturing or importing photovoltaic cells and modules. Photovoltaic cell and module shipments are in terms of electrical capacity expressed in peak kilowatts.

II. Current Actions

At this time, the EIA is proposing a three-year extension of Forms CE–63A/B. The EIA is planning to meet with solar industry companies and associations, DOE personnel, and other interested parties to discuss Forms CE–63A/B. If changes are made to Forms CE–63A and/or CE–63B as a result of this notice, the meeting, or other activities, the changes will be highlighted in the **Federal Register** notice announcing the submission of the forms to the Office of Management and Budget later this year.

III. Request for Comments

Prospective respondents and other interested parties should comment on the proposed extension of the Forms CE–63A/B. The following general guidelines are provided to assist in the preparation of responses. When commenting, please indicate to which form your comments apply.

As a potential respondent:

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can the data be submitted using the definitions included in the instructions?

C. Can data be submitted in accordance with the response time specified in the instructions?

D. Public reporting burden for this collection is estimated to average 3 hours per response. How much time, including time for reviewing instructions, searching existing data sources, gathering and maintaining the date needed, and completing and reviewing the collection of information, do you estimate it will require you to complete and submit the required form?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

F. How can the form be improved?

G. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the means of collection.

As a potential user:

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use the data? Be specific.

C. How could the form be improved to better meet your specific needs?

D. Are there alternate sources of data and do you use them? What are their deficiencies and/or strengths?

EIA is also interested in receiving comments from persons regarding their views on the need for the information contained in the "Annual Solar Thermal Collector Manufacturers Survey" and "Annual Photovoltaic Module/Cell Manufacturers Survey."

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

Statutory Authorities: Section 5(a), 5(b), 13(b), and 52 of Publ. L. 93–275, Federal Energy Administration Act of 1974, 15 U.S.C. 764(a), 764(b), 772(b) and 790a.

Issued in Washington, DC March 3, 1992.

Douglas R. Hale;

Acting Director, Statistical Standards, Energy Information Administration.

[FR Doc. 92–5282 Filed 3–5–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 5090–005]

Idaho Falls, ID; Intent To Hold a Public Meeting in Shelley, ID, To Discuss Staff's Draft Environmental Impact Statement (DEIS) for the Proposed Shelley Hydroelectric Project

March 2, 1992

On February 27, 1992, the Commission staff mailed the Shelley DEIS to the Environmental Protection Agency, resource and land managment agencies, parties to the proceeding, and interested organizations and individuals. This document evaluates the environmental consequences of: (1) Constructing and operating the applicant's proposed project on the Snake River in Bingham County, Idaho; (2) implementing applicant's proposal supplemented with staff's recommended mitigative measures; (3) constructing and operating an alternative project configuration that would include a dam at RM 786.6, approximately 1.0 mile upstream of the diversion damsite proposed by the applicant, and an adjacent powerhouse; and (4) the no-action alternative (license denial).

The public meeting on the Shelley Project, which will be recorded by an official stenographer, is scheduled from 7 to 10 p.m. on Tuesday, March 17, 1992, at the Senior Citizens Center, located at 192 West Pine Street in Shelley, Idaho 83274. At this meeting, resource agency personnel and other interested persons will have the opportunity to provide oral and written comments and recommendations regarding the Shelley DEIS for the Commission's public record.

For further information, please contact the FERC environmental coordinator, Jim Haimes, at (202) 219–2780.

Lois D. Cashell,

Secretary.

[FR Doc. 92–5196 Filed 3–5–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER92–236–000 and EL92–13–000]

Delmarva Power & Light Co.; Initiation of Proceeding and Refund Effective Date

February 28, 1992.

Take notice that on February 18, 1992, the Commission issued an order in the above-indicated dockets initiating an investigation in Docket No. EL92–13–000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL92–13–000 will be 60 days after publication of this notice in the **Federal Register.**

Lois D. Cashell,

Secretary

[FR Doc. 92–5195 Filed 3–5–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ST84–0779–004]

East Texas Industrial Co.; Extension Report

February 27, 1992.

The company listed below has filed an extension report pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and part 284 of the Commission's regulations giving notice of their intention to continue sales of natural gas for an additional term of up to 2 years.[1]

The table below lists the name and address of the company selling pursuant to part 284; the party receiving the gas; the date the extension report was filed; and the effective date of the extension. A "D" indicates a sale by an interstate pipeline extended under § 284.146.

Lois D. Cashell,

Secretary.

EXTENSION LIST

[February 24, 1992]

Docket No.	Seller	Recipient	Date filed	Part 284 subpart	Effective date	Expiration date[1]
ST84–0779–004	East Texas Industrial Gas Co., P.O. Box 460, Marshall, TX 75670.	Mississippi River Transmission Corp	01–28–92	D	04–19–92	04–27–92

[1] The pipeline has sought Commission approval of the extension of this transaction. The 90-day Commission review period expires on the date indicated.

[FR Doc. 92–5194 Filed 3–5–92; 8:45 am]

BILLING CODE 6717–01–M

Office of Civilian Radioactive Waste Management

Nuclear Waste Policy Act of 1982, as Amended; Section 180(c) Draft Strategy for OCRWM To Provide Training Assistance to State, Tribal, and Local Governments

AGENCY: Department of Energy.

ACTION: Announcement of availability.

SUMMARY: The Department of Energy (DOE), Office of Civilian Radioactive Waste Management (OCRWM), announces the availability of the Draft "Strategy" for OCRWM to Provide Training Assistance to State, Tribal, and Local Governments." The Draft describes DOE's proposed process to fulfill OCRWM's requirement to provide technical assistance and funding to States for training for public safety officials of appropriate units of local government and Indian Tribes through whose jurisdictions the Secretary of Energy plans to transport spent nuclear fuel and high-level radioactive waste, as stated in section 180(c) of the Nuclear Waste Policy Act, as amended (42 U.S.C. 10101 et seq.).

DATES: Comments must be received on or before May 5, 1992.

ADDRESSES: Written comments (3 copies) should be sent to Ronald Milner, Office of Civilian Radioactive Waste Management, RW–40, U.S. Department of Energy, 1000 Independence Avenue SW., Washington DC 20585. Copies of documents referred to in this notice are available for public review at DOE Headquarters reading room, 1000 Independence Avenue SW., room 1E–190, Washington, DC 20585, (202) 586–6020; Nevada Operations Office reading room, 2753 S. Highland, Las Vegas, NV 89109, (702) 295–1274; and the Richland Operations Office reading room, 825 Jadwin Avenue, Richland, WA 99352, (509) 376–8583.

FOR FURTHER INFORMATION CONTACT: Elissa Turner, Transportaiton Branch, Office of Storage and Transportation, Office of Civilian Radioactive Waste Management, U.S. Department of Energy, Washington, DC 20585, (202) 586–1710.

John W. Bartlett, Director,

Office of Civilian Radioactive Waste Management.

[FR Doc. 92–5276 Filed 3–5–92; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[FE Docket No. 91–88–NG]

Michigan Consolidated Gas Co.; Order Extending Authorization To Import Natural Gas From Canada, Revoking Emergency Interim Order, and Granting Intervention

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order extending authorization to import natural gas, revoking emergency interim order, and granting intervention.

[1] Notice of this extension report does not constitute a determination that a continuation of service will be approved.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Michigan Consolidated Gas Company authorization to import up to 50,000 Mcf of Canadian natural gas per day through January 22, 1995. The order also revokes the emergency interim authority granted to Michigan Consolidated Gas Company in DOE Order No. 575 and grants intervention to Great Lakes Gas Transmission Limited Partnership.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket 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, February 28, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–5277 Filed 3–5–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–94–NG]

Michigan Consolidated Gas Co.; Order Granting Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order granting authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Michigan Consolidated Gas Company authorization to import up to 32,000 Mcf per day of natural gas from Canada over a period beginning February 28, 1992, and extending through October 31, 1996.

A copy of this Order is available for inspection and copying in the Office of Fuels Programs Docket 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., February 28, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–5278 Filed 3–5–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–98–NG]

New England Power Co.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of order granting blanket authorization to import natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting New England Power Company blanket authorization to import up to 47.5 Bcf of natural gas from Canada over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket 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, February 28, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–5279 Filed 3–5–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–95–NG]

Niagara Mohawk Power Corp.; Order Granting Blanket Authorization to Import Natural Gas from Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Niagara Mohawk Power Corporation blanket authorization to import from Canada up to 77 Bcf of natural gas over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket 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, February 28, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–5280 Filed 3–5–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–101–NG]

Tarpon Gas Marketing Ltd.; Order Granting Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Tarpon Gas Marketing Ltd. blanket authorization to import up to 100 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket 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, February 28, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–5281 Filed 3–5–92; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ECAO–CD–86–082; FRL–4112–4]

Air Quality Criteria for Oxides of Nitrogen

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of public comment period.

SUMMARY: This notice announces the extension of the public comment period for the external review draft of "Air Quality Cirteria for Oxides of Nitrogen," prepared by EPA's Environmental Criteria and Assessment Office of the Office of Health and Environmental Assessment.

DATES: In the November 25, 1991, **Federal Register** (56 FR 59285), EPA announced that November 25, 1991, through February 28, 1992, was the public comment period for the external review draft of this document. The Agency is now extending the public comment period to March 30, 1992. Comments must be in writing and postmarked by the March date.

ADDRESSES: To obtain a copy of the external review draft, interested parties should write the ORD Publications Center, CERI–FRN, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268, or telephone (513) 569–7562, FTS 684–7562, (FAX) (513) 569–7566, or (FAX) FTS 684–7566 and request the external review draft of the "Air Quality Criteria for Oxides of Nitrogen." Please provide your name, mailing address, and the EPA document number, EPA/600/8–91/049A.

The external review draft will also be available for public inspection and copying at the EPA Library, EPA Headquarters, Waterside Mall, 401 M Street SW., Washington, DC.

Comments on the external review draft should be sent in writing to the Project Manager for Air Quality Criteria for Oxides of Nitrogen, Enviromental Criteria and Assessment Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Ms. Diane Ray, Environmental Criteria and Assessment Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, (919) 541–3637, FTS 629–3637, (FAX) (919) 541–5078, or [FAX] FTS 629–5078.

Dated: March 2, 1992.

Erich Bretthauer,

Assistant Administrator for Research and Development.

[FR Doc. 92–5260 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4112–7]

Prevention of Significant Deterioration of Air Quality (PSD); Multitrade Limited Partnership, Inc., Pittsylvania County, VA

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this Notice is to announce that the Administrator of the United States Environmental Protection Agency issued a final decision, pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations codified at 40 CFR 52.21 and the Procedures for Decisionmaking codified at 40 CFR part 124, regarding Multitrade Limited Partnership, Inc. in Pittsylvania County, Virginia.

DATES: The effective date of the Administrator's decision was January 21, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Denis M. Lohman, Chief, New Source Review Section, Air Enforcement Branch, Air, Radiation and Toxics Division, U.S. Environmental Protection Agency, Region III, Mail Code 3AT22, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107, (215) 597–3024

SUPPLEMENTARY INFORMATION: In a petition filed May 13, 1991, the Southern Environmental Law Center (SELC), on behalf of itself and other organizations, requested review of a Prevention of Significant Deterioration (PSD) permit issued on April 8, 1991, to Multitrade Limited Partnership, (Multitrade) for construction of a wood and coal fired electric power production facility near Hurt, Virginia. Petitions for review were also filed by the Superintendent of Shenandoah National Park (SNP) and numerous individual citizens who are residents of the area in which the plant is proposed to be built. The permit was issued by the Virginia Department of Air Pollution Control (DAPC) pursuant to a delegation of authority from the U.S. Environmental Protection Agency (EPA), Region III, Philadelphia, Pennsylvania 19107. Because of the delegation, the State's permit determination is subject to the review provisions of 40 CFR 124.19 before becoming final, and any PSD permit the DAPC issues will be an EPA-issued permit for purposes of federal law. 40 CFR 124.41; 45 FR 33413 (May 19, 1980). PSD permits issued by the DAPC are subject to the review provisions of the applicable EPA regulations 40 CFR 124.19 (1989).

On July 26, 1991, Multitrade, SELC, the Natural Resources Defense Council, and the U.S. Department of the Interior (on behalf of SNP) entered into an agreement to settle their differences. In pertinent part, the agreement calls upon Multitrade to request the State to change the permit as follows: facility will be 100% wood fueled power plant; to reduce SO_2 emissions from 623 tons per year (TPY) to 78.5 TPY; to reduce NO_x emissions from 623 TPY to 491 TPY; and to offset its SO_2 and NO_x emissions by entering into a federally enforceable agreement with Aqualon Company whereby Aqualon will permanently shut down four boilers.

Based on the events that have transpired since the pending petitions were filed, it is clear that Multitrade does not intend to construct the Hurt, Virginia facility under the same terms and conditions as are set forth in the PSD permit issued by the DAPC on April 8, 1991. Rather, Multitrade intends to seek changes in the permit pursuant to the terms of its settlement agreements with SELC, the Natural Resources Defense Council, and the U.S. Department of the Interior, and to ensure that the Aqualon boilers are permanently shut down to offset Multitrade's emissions. Hence, regardless of the Administrator's disposition of the pending petitions, a new final permit is now under consideration, thus making it highly unlikely that any such disposition would constitute final agency action within the meaning of 40 CFR 124.19(f)(1). In addition, as noted above, the boilers at the Aqualon facility have in fact been permanently shut down. In light of this development, and if Multitrade obtains the permit changes it seeks, it now appears that most or all of the issues presented in the pending petitions for review may be resolved and rendered moot. It is unlikely, therefore, that the conclusion of this proceeding would be hastened by addressing these issues at this juncture.

CONCLUSION: Multitrade's stated intent to seek changes in the permit issued on April 8, 1991, renders unripe the petitions pending before the Administrator. For this reason, the pending petitions have been dismissed without prejudice. Because "permit conditions should be finally determined at the Regional (State) level," 45 FR 33413, the Multitrade permit has been remanded to the State for whatever proceedings it deems appropriate (consistent with 40 CFR part 124 and applicable State permitting procedures) in response to Multitrade's request for permit changes.

Dated: February 27, 1992.

Edwin B. Erickson,

Regional Administrator.

[FR Doc. 92–5264 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4112–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 17, 1992 Through February 21, 1992 pursuant to the

Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 05, 1991 (56 FR 14096).

Draft EISs

ERP No. D–AFS–L65159–OR Rating EC2, Canyon Integrated Resource Project, Resource Management Plan, Implementation, Siskiyou National Forest, Illinois Valley Ranger District, Josephine County, OR.

Summary: EPA expressed environmental concerns regarding the action alternatives potential impacts on water quality, fisheries, and air quality. Additional information is needed on water and air quality effects and monitoring.

ERP No. D–UAF–G11019–NM Rating LO, Cannon Air Force Base Realignment, F/EF–111 Basing, Implementation, Curry County, NM.

Summary: EPA has no objection to the proposed alternative. ERP No. DS–COE–D39022–WW Rating LO, Winfield Locks and Dam Project, Lock Replacement, Alignment Modifications and Land Purchase, Implementation, near Eleanor, Putman County, WV.

Summary: EPA recommends the SEIS provide additional information on: 1) Wetlands impacts and 2) details on the planting mitigation plan on monitoring and maintaining the area. EPA also recommended that wetland mitigation efforts be initiated as soon as possible to offset the existing wetlands loss to construction.

Final EISs

ERP No. F–AFS–L65155–00 Northern Spotted Owl Management Plan in the National Forests, Implementation, CA, OR, and WA.

Summary: EPA believes that the final EIS adequately responded to its concerns with respect to impacts to the spotted owl. Subsequent changes to proposed owl protection measures on adjacent lands will require additional NEPA analysis.

ERP No. F–APH–A82120–00 National Boll Weevil Cooperative Control Program, Implementation and Funding, AL, AZ, AR, CA, FL, GA, KS, LA, MS, MO, NM, NC, OK, SC, TN, TX, VA.

Summary: EPA continues to have environmental objections to the proposed project. These objections would be eliminated if the program would rely less on the use of pesticides to control the boll weevil and if additional mitigation measures would be developed. Several factual errors were identified.

ERP No. F–COE–E36169–FL Central and Southern Florida Flood Control Project, Restoration of the Upper Kissimmee River Basin through the Headwater Revitalization Project and the Lower Kissimmee River Basin through the Level II Backfilling Plan, Implementation, Glades, Osceola, Highlands, Polk, Okeechobee and Orange Counties, FL.

Summary: EPA expressed continued concerns with navigation and cultural resource impacts.

ERP No. F–FHW–G40128–AR Siloam Springs Highway Construction, US 71/US 412 Siloam Springs to Springdale, Funding, Section 404 Permit, Benton and Washington Counties, AR.

Summary: EPA has no objection to the selection of alternative D2.

Other

ERP No. LD–UAF–A100064–00 Rating LO, Strategic Arms Reduction Treaty (START), Agreement between the United States (US) and Union of Soviet Socialist Republics (USSR), Reduction and Limitation, Deployed Strategic Offensive Arms, Ratification/Nonratification.

Summary: EPA agrees with the Department of Defense's decision to pursue a tiered NEPA Act approach for site-specific, Strategic Arms Reduction Treaty implementation actions.

Dated: March 3, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92–5294 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4112–8]

Environmental Impact Statements; Availability

AGENCY: Office of Federal Activities, General Information (202) 260–5073 OR (202) 260–5075.

Availability of Environmental Impact Statements Filed February 24, 1992 Through February 28, 1992 Pursuant to 40 CFR 1506.9.

EIS No. 920057, FINAL EIS, FRC, NJ, Mount Hope Pumped Storage Hydroelectric Project, Construction, Operation and Maintenance, License, Section 404 Permit, Morris County, NJ, Due: April 06, 1992, Contact: James Haimes (202) 219–2780.

EIS No. 920058, FINAL EIS, FAA, HI, Kalaupapa Airport, Roadway and Wharf Improvement, Construction and Funding, Island of Molokai, Kalawao County, HI, Due: April 06, 1992, Contact: Owen Miyamoto (808) 836–6432.

EIS No. 920059, FINAL EIS, AFS, WY, Teton Village Federal Tract/Diamond L Ranch Land Exchange, Special Use Permits, Bridger-Teton National Forest, Teton County, WY, Due: April 06, 1992, Contact: Pete Mourtsen (307) 733–4755.

EIS No. 920060, DRAFT EIS, FHW, NC, I–85 Greensboro Bypass Study Area Transportation Improvement, I–85 South of Greensboro to I–40/85 east of Greensboro, Funding, Possible Section 404 Permit, City of Greensboro, Guilford County, NC, Due: April 24, 1992, Contact: Nicholas L. Graf (919) 856–4346.

EIS No. 920061, FINAL EIS, FHW, OR, I–84 Widening, N.E. 181st Avenue to Sandy River, Funding and 404 Permit, Multnomah County, OR, Due: April 06, 1992, Contact: John H. Gernhauser (503) 399–5749

EIS No. 920062, DRAFT EIS, FRC, ID, Shelley (FER. NO. 5090) Hydroelectric Project on the Snake River, Construction, License, City of Idaho Falls, Bingham County, ID, Due: April 20, 1992, Contact: James Haimes (202) 219–2780.

EIS No. 920063, DRAFT EIS, BIA, CA, Campo Band of Mission Indians Reservation Solid Waste Management Project, Construction and Operation, Lease and Sublease Approval, Peninsular Ranges, San Diego County, CA, Due: May 08, 1992, Contact: Donald Knapp (916) 978–4703.

EIS No. 920064, FINAL EIS, USA, HI, Fort DeRussy Armed Forces Recreation Center Development, Construction, Implementation, Oahu Island, County of Honolulu, HI, Due: April 06, 1992, Contact: David G. Sox (808) 438–5030.

EIS No. 920065, DRAFT EIS, GSA, MA, New United States Courthouse in Boston, Construction and Operation, Site Selection, Fan Pier in the Fort Point Channel, Boston, MA, Due: April 23, 1992, Contact: Peter Sneed (212) 264–3581.

EIS No. 920066, FINAL EIS, DOE, WA, ID, OR, Adoption—1992 Columbia/Snake Rivers Salmon Flow Measures, Marketing of Power and Control of Water Flow, Implementation, WA, OR and ID, Due: April 06, 1992, Contact: Carol Borgstrom (202) 586–4600.

The US Department of Energy, has Adopted the US Army Corps of Engineers, Corps of Engineers final EIS

filed with the Environmental Protection Agency on 1–16–92.

Dated: March 3, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92–5293 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4110–2]

Reports on Male Rat Kidney Tumors

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Availability.

SUMMARY: This notice announces the availability of two reports through the Center for Environmental Research Information (CERI), U.S. Environmental Protection Agency (EPA). One report, "Alpha$_{2\mu}$-globulin: Association with Chemically Induced Renal Toxicity and Neoplasia in the Male Rat" (EPA/625/3–91/019F) was prepared by EPA's Risk Assessment Forum and provides Agency-wide guidance for evaluating renal tubule tumors and nephrotoxicity in the male rat. The second publication, "The Report of the EPA Peer Review Workshop on Alpha$_{2\mu}$-globulin: Association with Renal Toxicity and Neoplasia in the Male Rat" (EPA/625/3–91/021) describes major scientific issues discussed at the peer review meeting.

ADDRESSES: To obtain a single copy of either report, interested parties should contact the ORD Publications Office, CERI–FRN, U.S. Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268, Telephone: (513) 569–7562 or FTS: 684–7562. Please provide your name and mailing address and request the document by the title and EPA number.

The reports will also be available for public inspection and copying in the Public Information Reference Unit of the EPA Headquarters Library, Waterside Mall, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: For further information on this **Federal Register** notice, contact Ms. Clare Stine, Technical Liaison, Risk Assessment Forum, U.S. Environmental Protection Agency (RD–689), 401 M Street SW., Washington, DC 20460, Telephone: (202) 260–6743 (FTS: 260–6743).

SUPPLEMENTARY INFORMATION: The Risk Assessment Forum report, "Alpha$_{2\mu}$-globulin: Association with Chemically Induced Renal Toxicity and Neoplasia in the Male Rat" (EPA/625/3–91/019F) provides Agency-wide guidance for evaluating renal tubule tumors in the male rat. According to the Forum report, risk assessment approaches generally assume that a chemical producing tumors in laboratory animals is a potential cancer hazard to humans. For most chemicals, including many rodent kidney carcinogens, this extrapolation remains appropriate. The report describes specific conditions, however, under which the Risk Assessment Forum advises EPA risk assessors against using information on certain renal tubule tumors or nephrotoxicity to assess human risk. In this situation, the chemical induces accumulation of the protein alpha$_{2\mu}$-globulin ($\alpha_{2\mu}$-g) in the proximal tubule of the male rat kidney, initiating a sequence of events, specific to the male rat, that appears to lead to renal tubule tumor formation. This EPA policy against use of a particular animal tumor under certain circumstances for risk assessment purposes is an important departure from EPA's general approach to cancer risk assessment.

The Forum report stresses the need for full scrutiny of a substantial set of data to determine when it is reasonable to presume that renal tumors in male rats are linked to a process involving $\alpha_{2\mu}$-g accumulation and to select appropriate procedures for estimating human risks under such circumstances. Details of the analysis can be found by referring to the Risk Assessment Forum report.

On November 13 and 14, 1990, EPA's Risk Assessment Forum assembled a peer review panel of scientifically qualified persons to discuss four major topics analyzed in a draft of the report, "Alpha$_{2\mu}$-globulin: Association with Chemically Induced Renal Toxicity and Neoplasia in the Male Rat." These subjects included $\alpha_{2\mu}$-g and nephrotoxicity, renal cancer, criteria for distinguishing renal carcinogens that induce $\alpha_{2\mu}$-g accumulation from other renal carcinogens, and risk characterization. The workshop report, entitled "The Report of the EPA Peer Review Workshop on "Alpha$_{2\mu}$-globulin: Association with Renal Toxicity and Neoplasia in the Male Rat" (EPA/625/3–91/021), highlights major scientific issues discussed at the meeting and the recommendations made to EPA by the peer reviewers. The workshop report includes EPA's premeeting statement of issues, a summary by the workshop chair, remarks by opening session speakers, reports by each of the four subcommittees, and a list of participants at the meeting.

Dated: January 17, 1992.

Erich W. Bretthauer,

Assistant Administrator for Research and Development.

[FR Doc. 92–5258 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–140175; FRL–4049–7]

National Council of Senior Citizens; Access to Trade Secret Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized the National Council of Senior Citizens (grantees under the Senior Environmental Employment Program) for access to information submitted to EPA pursuant to sections 303, 311, 312, 313, and 322 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), also known as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). Some of the information may be claimed or determined to be trade secret information.

DATES: Access to the trade secret information submitted to EPA will occur no sooner than March 16, 1992.

FOR FURTHER INFORMATION CONTACT: Steven D. Newburg-Rinn, Chief, Public Data Branch, Information Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. NE-G008, Mail Stop TS–793, 401 M St., SW., Washington DC 20460, Telephone: 202–260–3757.

SUPPLEMENTARY INFORMATION: Under section 322 of EPCRA, facilities may assert trade secrecy claims regarding the chemical identities reported in their section 303, 311, 312, and 313 submittals to EPA. Under grant number CQ–819705, the National Council of Senior Citizens (NCSC), 1331 F St., NW., Washington, DC, 20004, as an enrollee in the Senior Environmental Program, will assist EPA in enforcement of EPCRA, including conducting inspections of facilities on behalf of EPA for purposes of determining compliance with EPCRA. EPA has determined that in order to successfully carry out their duties under the grant, NCSC may be required to review or receive information on behalf of EPA that is claimed or determined to be trade secret. Therefore, EPA has determined that NCSC requires access to trade secret information under EPCRA. NCSC employees will sign nondisclosure agreements and follow all required security procedures.

EPA is issuing this notice to inform all submitters of trade secret information under the aforementioned EPCRA sections that EPA will provide NCSC employees access to trade secret information on a need-to-know basis. Access to EPCRA trade secret information may take place at facility sites, EPA Regions or headquarters

offices, or the EPCRA Reporting Center. Upon termination of their grant, or prior to termination of their grant at EPA's request, NCSC will return all material to EPA.

Clearance to access to EPCRA trade secret information under this grant is scheduled to expire February 11, 1995.

Dated: February 27, 1992.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92–5252 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–140176; FRL–4049–8]

ABT Associates, Inc.; Access to Trade Secret Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized International Technology Environmental Programs of Bethesda, MD, as subcontractor to ABT Associates, Inc., for access to information submitted to EPA pursuant to sections 303, 311, 312, 313, and 322 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), also known as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). Some of the information may be claimed or determined to be trade secret information.

DATES: Access to the trade secret information submitted to EPA will occur no sooner than March 16, 1992.

FOR FURTHER INFORMATION CONTACT: Steven D. Newburg-Rinn, Chief, Public Data Branch, Information Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. NE–G008, Mail Stop TS–793, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–3757.

SUPPLEMENTARY INFORMATION: Under EPCRA, industry must report information on the presence, use, production, and manufacture of certain chemicals to EPA. Under section 322 of EPCRA, facilities must send trade secrecy claims regarding their section 303, 311, 312, and 313 submittals to EPA.

Under contract number 68–D0–0020, International Technology Environmental Programs (ITEP), 1133 21st St., NW., Suite 401, Washington, DC 20036, as subcontractor to ABT Associates, Inc., 4800 Montgomery Lane, suite 500, Bethesda, Md 20814, assists the Office of Pollution Prevention and Toxics in processing the information submitted by industry in response to the requirements of sections 303, 311, 312, 313, and 322 of EPCRA. ITEP staff conduct reviews of EPCRA submissions at the EPCRA Reporting Center where submissions are received and processed. ITEP reviews selected submissions for technical accuracy and contacts submitters regarding potential discrepancies.

ITEP performed these same duties in the past under a different contract number, 68–D8–0112. EPA announced clearance for access to EPCRA trade secret information by ITEP under this prior contract in a notice published in the **Federal Register** of September 23, 1991 (56 FR 47960).

EPA has determined that ITEP, as subcontractor to ABT Associates, Inc., requires continued access to EPCRA trade secret information while performing the same duties under the new contract number 68–D0–0020. ITEP personnel will continue to sign nondisclosure agreements and follow all required security procedures.

EPA is issuing this notice to inform all submitters of trade secret information under the aforementioned EPCRA sections that EPA will continue to provide ITEP personnel access to trade secret information on a need-to-know basis. All access to EPCRA trade secret information will take place at the EPCRA Reporting Center. Upon termination of their contract, or prior to termination of their contract at EPA's request, ITEP will return all material to EPA.

Clearance for access to EPCRA trade secret information by ITEP under contract number 68–D0–0020 is expected to expire on September 30, 1992. Clearance for access under this notice will be extended for so long as ITEP continues to perform the duties described above pursuant to any contract renewal or other existing contract.

Dated: February 27, 1992.

George A. Bonina,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92–5253 Filed 3–5–92; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on Advanced Television Service

A meeting of the Advisory Committee on Advanced Television Service will be held on: March 24, 1992, 2 p.m., Commission Meeting Room (room 856), 1919 M Street NW., Washington, DC.

The agenda for the meeting will consist of:

1. Introduction.
2. Approval of Minutes of the Last Meeting.
3. Remarks by FCC Chairman Alfred Sikes.
4. Reports of the Subcommittees.
5. Report of Testing Laboratories.
6. Draft of Fifth Interim Report.
7. Testing Schedule.
8. Future Work Plans.
9. Financial Report.
10. Other Business.
11. Adjournment.

All interested persons are invited to attend. Those interested also may submit written statements at the meeting. Oral statements and discussion will be permitted under the direction of the Advisory Committee Chairman.

Any questions regarding this meeting should be directed to Richard E. Wiley at (202) 429–7010 or William Hassinger at (202) 632–6460.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–5285 Filed 3–5–92; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1879]

Petitions for Reconsideration and Clarification and Motions for Stay of Actions in Rule Making Proceedings

March 3, 1992–G4.

Petitions for reconsideration and clarification and motions for stay have been filed in the Commission rule making Proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452–1422. Oppositions to these petitions must be filed March 23, 1992.

See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of §73.202(b) Table of Allotments, FM Broadcast Stations. [Grenada, Artesia, and Okolona, Mississippi] [MM Docket No. 89–406, RM Nos. 6745 and 7255] Number of Petitions Filed: 1

Subject: Amendment of §73.202(b) Table of Allotments, FM Broadcast Stations. [Harrisburg and Albemarle, North Carolina] [MM Docket No. 89–594, RM No. 7142] Number of Petitions Filed: 1

Subject: Amendment of part 22 of the Commission's Rules to provide for filing and processing of applications for unserved areas in the Cellular Service and to modify other cellular rules. [CC Docket No. 90–6] Number of Petitions Filed: 10

Subject: Regulation of International Accounting Rates. [CC Docket No. 90–337, Phase II] Number of Petitions Filed: 3

Motion for Stay

Subject: Amendment §73.202(b), Table of Allotments, FM Broadcast Stations. (Grenada, Artesia, and Okolona, Mississippi) (MM Docket No. 89–406, RM Nos. 6745 & 7255) Number of Petitions Filed: 1

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–5226 Filed 3–5–92; 8:45 am]

BILLING CODE 6712–01–M

Applications for Consolidated Proceeding

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Southwest Allen County Schools	Lafayette Township, Indiana	BPED–900215MC	92–27
B. Faith Christian Academy	Berne, Indiana	BPED–901203MN	

Issue heading	Applicants
1. Environmental	B
2. 307(b)—Noncommercial, educational.	Both
3. Contingent Comparative—Noncommercial, Educational FM.	Both
4. Ultimate	Both

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding 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 may also be purchased from the Commission's duplicating contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036 (Telephone No. (202) 452–1422).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 92–5284 Filed 3–5–92; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Revision of a currently approved collection.

Title: Criminal Referral Reporting.

Form Number: FDIC 6710/06, FDIC 6710/06A.

OMB Number: 3064–0077.

Expiration Date of OMB Clearance: April 30, 1994.

Respondents: Insured state nonmember banks wishing to report apparent internal crimes and violations affecting the banks' assets and affairs.

Frequency of Response: On occasion.

Number of Respondents: 6,500.

Number of Responses Per Respondent: 1.

Total Annual Responses: 6,500.

Average Number of Hours Per Response: 0.6.

Total Annual Burden Hours: 3,900.

OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0017, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted before January 15, 1992.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Insured state nonmember banks must report apparent internal crimes and violations affecting their assets and affairs to the appropriate investigatory and prosecuting authorities, as well as to the FDIC. This submission to the OMB seeks to streamline the reporting requirements.

Dated: March 2, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92–5225 Filed 3–5–92; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Items Submitted for OMB Review

The Federal Maritime Commission hereby gives notice that the following items have been submitted to the Office of Management and Budget (OMB) for review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3601, *et seq.*), as amended. Requests for information, including copies of the collection of information and supporting documentation, may be obtained from Norman W. Littlejohn, Director, Bureau of Administration, Federal Maritime Commission, 1100 L Street, NW., room 12211, Washington, DC 20573, telephone

number (202) 523–5866. Comments may be submitted to the agency and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, attention: Desk Officer for the Federal Maritime Commission, within 15 days after the date of the **Federal Register** in which this notice appears.

Summary of Items Submitted for OMB Review, 46 CFR Part 540 and Related Application Form FMC–131

FMC requests an extension of clearance for 46 CFR part 540 which implements sections 2 and 3 of Public Law 89–777 (46 U.S.C. 817 (d) and (e) and related application Form FMC–131. Public Law 89–777 requires vessel owners, charterers, and operators of American and foreign passenger vessels having 50 or more berth or stateroom accommodations and embarking passengers at United States ports, to establish their financial responsibility to meet liability incurred for death or injury and to indemnify passengers in the event of nonperformance of a voyage or cruise. The Commission estimates an annual respondent universe of 60 cruise line operators who possess Certificates (Performance and Casualty) for 125 vessels. Total estimated respondent burden is 868 manhours: 580 manhours for complying with the regulation and 288 manhours for completion of the form. Total cost to the Federal Government is estimated at $88,000; total cost to respondents is estimated at $41,300.

Joseph C. Polking,

Secretary.

[FR Doc. 92–5189 Filed 3–5–92; 8:45 am]

BILLING CODE 6730–01–M

Port of New York and New Jersey/ Ecuadorian Line et al., Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–003158–008.

Title: Port of New York and New Jersey/ Ecuadorian Line Terminal Agreement.

Parties: The Port Authority of New York and New Jersey Ecuadorian Line, Inc.

Synopsis: The proposed amendment would extend the term of the Agreement until the effectiveness of a new Supplement 8 to the Agreement or until April 30, 1992, whichever is earlier.

Agreement No.: 224–004177–007.

Title: Port of Seattle/Stevedoring Services of America Lease Agreement.

Parties: Port of Seattle Stevedoring Services of America ("SSA").

Synopsis: This Agreement, filed February 27, 1992, documents the relocation of Hyundai Merchant Marine, Inc. from terminal 42 to Terminal 18 at the Port of Seattle pursuant to termination of the Terminal 42 lease with SSA. The basic lease on Terminal 18 is amended to designate a portion of the Terminal 18 premises for Hyundai operations, although SSA continues to lease the entire terminal. SSA's rental billing will now reflect a reduced acreage billing and the addition of per container billing for the Hyundai-related portion of the lease.

Agreement No.: 224–200624.

Title: Tampa Port Authority/Starlite Cruises Terminal Agreement.

Parties: Tampa Port Authority Starlite Cruises, Inc. ("Starlite").

Synopsis: The proposed Agreement would grant Starlite non-exclusive, preferential use of a passenger terminal facility in Tampa, Florida.

Agreement No.: 224–200625.

Title: L.A. Cruise Ship Terminals/ Norwegian Cruise Line Customer Agreement.

Parties: L.A. Cruise Ship Terminals, Inc. ("L.A. Cruise") Norwegian Cruise Line.

Synopsis: The proposed Agreement would permit Norwegian Cruise Line to utilize terminal facilities and services provided by L.A. Cruise in the Port of Los Angeles.

Agreement No.: 224–200627.

Title: L.A. Cruise Ship Terminals, Inc./Royal Caribbean Cruises, Ltd. Terminal Use Agreement.

Parties: L.A. Cruise Ship Terminals, Inc. ("LACST") Royal Caribbean Cruises, Ltd. ("RCC").

Synopsis: This Agreement, filed February 27, 1992, provides that LACST will furnish various facilities and services to RCC for and with respect to passenger vessels owned and operated by RCC. The facilities being furnished are located in Los Angeles Harbor (as described in Permit Nos. 506 and 684.

Dated: March 3, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92–5229 Filed 3–5–92; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public, Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817 (d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Chandris S.A. and Zenith Shipping Corporation, 5200 Blue Lagoon Drive, Miami, FL 33126

Vessel: Zenith

Dated: March 3, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92–5228 Filed 3–5–92; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public, Financial Responsibility To Meet Liability Incurred for Death or Injury To Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Commodore Cruise Line Ltd. and Regal Cruises Ltd., 800 Douglas Road, Coral Gables, FL 33134

Vessel: Caribe I

Dated: March 3, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92–5230 Filed 3–5–92; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public, Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Commodore Cruise Line Ltd., 800 Douglas Road, Coral Gables, FL 33134
Vessel: Caribe I

Dated: March 3, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92–5227 Filed 3–5–92; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

Request for Comment on Proposed Cooperative Program for Federal-State Cooperation in Merger Enforcement

AGENCY: Federal Trade Commission.

ACTION: Notice, with request for public comment, of proposed program for federal-state cooperation in merger enforcement.

DATES: Comments will be received until April 6, 1992.

ADDRESSES: Comments should be addressed to the Secretary, Federal Trade Commisson, 6th & Pennsylvania Avenue, NW., Washington, DC 20580. Comments will be entered on the public record of the Commission and will be available for public inspection in room 130 during the hours of 9 a.m. until 5 p.m.

FOR FURTHER INFORMATION CONTACT: Geoffrey M. Green, Assistant to the Director, Bureau of Competition, (202) 326–2641.

SUPPLEMENTARY INFORMATION: The Commission is considering a proposed program for federal-state cooperation in merger enforcement. The proposed program is designed to complement the National Association of Attorneys General Voluntary Pre-Merger Disclosure Compact ("Compact"). The Compact applies when a proposed merger, acquisition or other transaction is subject to the reporting requirements under section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("HSR Act"). The HSR Act requires that the parties to most significant acquisitions of voting securities or assets notify the Commission (and the Department of Justice) in advance, and delay consummation of the transaction until certain waiting periods specified in the Act have elapsed.

Under the Compact, participating states agree that they will not serve compulsory demands for information during the HSR waiting period and prior to instituting a judicial proceeding to enjoin a proposed transaction, if the parties to the proposed transaction ("submitters") provide the "liaison state" (as defined in the Compact) with information specified by the Compact. This information includes (1) a copy of the submitter's HSR filing; (2) a copy of any second requests for additional information issued by Federal antitrust enforcement authorities pursuant to section 7A(e)(1) of the HSR Act, 15 U.S.C. 18a(e)(1), or other information requests directed to submitters by such authorities; and (3) on request by a participating state, materials provided by submitters in response to such Federal information requests.

The proposal under consideration by the Commission contemplates that the Commission would provide certain additional types of information to interested states. States that participate in the Compact and that wish to participate in the proposed program would be required to submit a certification of confidentiality to the General Counsel of the Commission ("General Counsel").

The program would apply in a particular matter only if a submitter (1) provides a copy of its HSR filing to the liaison state under the Compact and (2) provides a letter to the Commission waiving confidentiality protections under Federal law insofar as those protections constrain disclosures by the Commission to members of the Compact. If waiver letters are received from submitters, the Commission would thereafter respond to requests for assistance from the participating liaison state. Specifically, Commission staff would provide the liaison state with the following information:

(a) Staff would provide copies of second requests, and copies of third party subpoenas with the identities of the subpoena recipients redacted. (If redaction of identities is insufficient to protect confidential information bout subpoena recipients, individual specifications might be deleted or entire subpoenas might be withheld.)

(b) Staff would identify the expiration dates of HSR waiting periods.

(c) Staff would provide limited assistance in analyzing the merger. However, staff would not disclose specific recommendations made to agency decisionmakers and would limit disclosures as necessary to protect confidential information, including information supplied by third parties.

Under the proposed program, the Commission would not provide states with documents submitted by merging parties under the HSR Act. The HSR submitters themselves, at their own discretion, would provide that information to the states.

The proposed program also contains safeguards to protect the confidentiality of the limited information that the Commission would itself provide to states. First, a state that obtains information under this program would be able to share such information only with other states that have completed a confidentiality certification.

Second, a participating state would be required to advise the Commission's General Counsel if it receives a discovery request or public access request for information obtained under the cooperative program. The state would be required to assert vigorously any privilege or exemption claimed by the General Counsel, or to assist the General Counsel in intervening in a proceeding to assert the exemption or privilege.

(Authority: 15 U.S.C. 46)

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92–5273 Filed 3–5–92; 8:45 am]

BILLING CODE 6750–01–M

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notifications Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney

General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 021892 AND 022892

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN No.	Date Terminated
Textron Inc., General Dynamics Corporation, The Cessna Aircraft Company	92-0548	02/18/92
The ARA Group, Inc., Richard M. Salem, WearGuard Corporation	92-0542	02/19/92
The Prudential Insurance Company of America, The Prudential Insurance Company of America, Lyco Acquis. 1983-I Ltd. & Lyco 1987 Gulf Coast L.P.-I	92-0562	02/19/92
CITIC Pacific Limited, Hang Chong Investment Company, Limited, Hang Chong Investment Company, Limited	92-0563	02/19/92
Norcen Energy Resources Limited, Canadian Pacific Limited, PanCanadian Petroleum Company	92-0566	02/19/92
Ashland Coal, Inc., The United Company, Dal-Tex Coal Corporation	92-0587	02/19/92
Carl C. Icahn, Memorex Telex N.V., Memorex Telex N.V.	92-0574	02/21/92
Thomas H. Lee Equity Partners, L.P., Snapple Holding Corp. (Joint Venture), Snapple Holding Corp. (Joint Venture)	92-0594	02/21/92
Thomas H. Lee Equity Partners, L.P., Unadulterated Food Products, Inc., Unadulterated Food Products, Inc.	92-0595	02/21/92
The Weston Paper and Manufacturing Co., Gibson Container, Inc., Gibson Container, Inc.	92-0590	02/24/92
Varco International, Inc., Baroid Corporation, Shaffer, Inc.	92-0582	02/25/92
The Second Fulcrum III Limited Partnership, PDV Holding, Inc., Foodmaker, Inc.	92-0597	02/25/92
The Pittston Company, Addington Resources, Inc., Kanawha Land Company, Inc. and Addington, Inc.	92-0598	02/26/92
Unitrin, Inc., Geneve Holdings, Inc., Southern Life and Health Insurance Company	92-0600	02/26/92
Bespak plc, Chemical Banking Corporation, Tenax Holdings Corporation	92-0601	02/26/92
Brambles Industries Limited, Environmental Systems Company, Environmental Systems Company	92-0596	02/27/92
TakeCare, Inc., Lincoln National Corporation, Lincoln National Administrative Services Corporation	92-0571	02/28/92
The Wharf (Holdings) Limited, Aer Lingus PLC, Berkshire Hotel Associates, L.P.	92-0573	02/28/92
Artal N.V., James D. Atkins, Nellson Candies, Inc.	92-0599	02/28/92
Summit Ventures II, L.P., Acurex Corporation, Acurex Corporation	92-0603	02/28/92
Chan Tan Ching Fen, Peder Kolind, Network Holdings, Inc.	92-0607	02/28/92
Unitog Company, Benjamin Hertz, Hertz & Hertz, L.P. and Mid West Services, Inc.	92-0611	02/28/92
The Dow Chemical Company, General Electric Company, General Electric Capital Corporation	92-0624	02/28/92

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, or Renee A. Norton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92-5274 Filed 3-5-92; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Members on Public Advisory Committees; Food Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for 20 voting members to serve on the Food Advisory Committee (the committee) in FDA's Center for Food Safety and Applied Nutrition. The agency is also requesting nominations for four nonvoting representatives of industry interests. Elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule announcing the establishment of this committee.

DATES: Nominations should be received by April 6, 1992.

ADDRESSES: All nominations for membership, except for consumer-nominated members, should be sent to Patricia Thompson (address below). All nominations for the consumer-nominated members should be sent to Phyllis Weller (address below).

FOR FURTHER INFORMATION CONTACT: *Regarding all nominations for membership, except for consumer-nominated members:* Patricia Thompson, Center for Food Safety and Applied Nutrition (HFF-29), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1564.

Regarding all nominations for consumer-nominated members: Phyllis Weller, Office of Consumer Affairs (HFE-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5006.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for 24 members to serve on the committee. The function of the committee is to provide advice primarily to the Director, Center for Food Safety and Applied Nutrition, and as needed, to the Commissioner of Food and Drugs and other appropriate officials, on emerging food safety, food science, and nutrition issues that FDA considers of primary importance in the next decade. The committee will also provide advice and make recommendations on ways of communicating to the public the potential risks associated with these issues and recommend approaches to be considered in addressing them.

Persons nominated for membership shall be knowledgeable in the fields of life sciences, food science, risk assessment, and other relevant scientific disciplines. The committee may include technically qualified members who are identified with consumer interests and are recommended by either a consortium of consumer-oriented organizations or other interested persons. Representatives of industry interests will serve as nonvoting liaisons. The term of office is 4 years, except that initial appointments will be staggered to permit an orderly rotation of membership.

Interested persons may nominate one or more qualified persons for membership on the committee. Nominations shall state that the nominee is willing to serve as a member of the committee and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

Selection of representatives of consumer interests will be conducted through procedures that include use of a consortium of consumer organizations which has the responsibility for

screening, interviewing, and recommending candidates for the agency's selection. Candidates, like all other candidates for membership on the committee, should possess appropriate qualifications to understand and contribute to the committee's work.

Regarding nominations for nonvoting members representing industry interests, a letter will be sent to each person who has made a nomination and to those organizations that have expressed an interest in participating in the selection process, together with a complete list of all such organizations and the nominees. The letter will state that it is the responsibility of each nominator or organization that has expressed an interest in participating in the selection process to consult with the others in selecting members representing industry interests within 60 days after receipt of the letter. If no individuals are selected within 60 days, the agency will select the nonvoting members representing industry interests.

FDA has special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, or physically handicapped candidates.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: March 2, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-5223 Filed 3-5-92; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 92P-0038]

Cottage Cheese Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Alta-Dena Certified Dairy, to market test a product designated as "nonfat cottage cheese" that deviates from the U.S. standards of identity for cottage cheese (21 CFR 133.128), dry curd cottage cheese (21 CFR 133.129), and lowfat cottage cheese (21 CFR 133.131). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product, identify mass production problems, and assess commercial feasibility.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than June 4, 1992.

FOR FURTHER INFORMATION CONTACT: Michelle A. Smith, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0106.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Alta-Dena Certified Dairy, 17637 E. Valley Blvd., P.O. Box 388, City of Industry, CA 91744.

The permit covers limited interstate marketing tests of a nonfat cottage cheese, formulated from dry curd cottage cheese and a dressing. The test product deviates from the U.S. standards of identity for cottage cheese (21 CFR 133.128) and lowfat cottage cheese (21 CFR 133.131) in that the product contains less than 0.5 gram total fat per serving, and the milkfat content of the test product is 0.44 percent, compared to not less than 4 percent milkfat in cottage cheese and 0.5 to 2.0 percent in lowfat cottage cheese. The test product also deviated from the U.S. standard of identity for dry curd cottage cheese (21 CFR 133.129) because of the added dressing. The product meets all requirements of the standards with the exception of these deviations. The purpose of this variation is to offer the consumer a product that is nutritionally equivalent to cottage cheese products with dressing but contains less fat.

For the purpose of this permit, the name of the product is "nonfat cottage cheese." The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

The permit provides for the temporary marketing of a total 436,000 kilograms (960,000 pounds) of the test product. The product will be manufactured at Alta-Dena Certified Dairy, 17637 East Valley Blvd., City of Industry, CA 91747, Plant No. 06-2238, and distributed nationally.

Each of the ingredients used in the food must be declared on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than June 4, 1992.

Dated: February 25, 1992.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-5295 Filed 3-5-92; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Rural Health Research Centers

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Office of Rural Health Policy (ORHP), Health Resources and Services Administration, announces that applications are being accepted for a program of grants to develop and operate Rural Health Research Centers. This program is authorized by section 301, title III, of the Public Health Service Act. These centers will conduct policy relevant research on rural health issues of multi-state and national significance, and disseminate the findings of their research.

Awards will be made from funds appropriated under Public Law 102-170 (HHS Appropriations Act for FY 1992). It is anticipated that approximately $2.1 million will be available to support new and competing continuation awards in this grant program in FY 1992.

DATES: To receive consideration, applications must be received by the close of business, on May 15, 1992 by the Grants Management Officer at the address below.

Applications shall be considered as meeting the deadline if they are either (1) received on or before the deadline date; or (2) postmarked on or before the deadline date and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be acceptable as proof of timely mailing. Applications not meeting the deadline will be returned to the applicant.

ADDRESSES: Requests for grant application packages should be addressed to: Grants Management Office, Bureau of Health Care Delivery and Assistance, HRSA, 12100 Parklawn Drive, Rockville, Maryland 20857, (301) 443-5414.

FOR FURTHER INFORMATION: For information on program aspects, contact: Patricia Taylor, Ph.D., Office of

Rural Health Policy, HRSA, 5600 Fishers Lane, room 14–22, Rockville, MD 20857, (301) 443–0835.

For information on grants and business management aspects, contact: Grants Management Office, Bureau of Health Care Delivery and Assistance, HRSA, 12100 Parklawn Drive, Rockville, Maryland 20857, (301) 443–5414.

The Standard application form and general instructions for completing applications, Form PHS 398 Public Health Service Grant have been approved by the Office of Management and Budget (OMB No. 0925–0001). The narrative description of the project may not exceed 30 pages in length.

SUPPLEMENTARY INFORMATION:

Program Objectives

The purpose of this grant program is to enable institutions to plan and establish new research centers, and to operate existing and new research centers to conduct policy relevant research on rural health. Awards will be made for approximately five to seven Rural Health Research Centers across the country for project periods not to exceed 4 years. Within the limits of these resources, these centers will: (1) Conduct policy relevant rural health research and (2) Disseminate their research findings to the rural health policy audience.

Eligible Applicants

All public and private entities, both non-profit and for-profit, are eligible to apply.

Background

The objective of the Rural Health Research Centers grant program is to increase the amount of high quality, policy relevant rural health research being conducted in the nation. It is intended that the research and dissemination activities of these centers will inform policy to improve the availability, affordability and accessibility of health care services for rural residents.

The centers must be responsive to the diverse information needs of rural health policy makers in their multi-state regions and at the national level. Individual projects may include but are not limited to collection and analysis of new data, secondary analysis of existing data, comparative case studies, and evaluation of demonstration projects.

Grant projects should focus on at least one and preferably two areas of rural health and health services research. Examples of focus areas include:

Rural Health Professions Supply

—Financing
—Training
—Recruitment
—Retention
—Effective use of mid-level health care practitioners

Rural Health Care Financing

—Rural considerations in health insurance reform
—Rural impact of Medicare and Medicaid payment policies

Appropriateness and Effectiveness of Rural Health Care Services and Procedures

—Quality of care
—Relationship of service volume to patient outcome
—Impact of health networks on access and quality of care
—Integration of mental health services with rural primary health care services

Rural Systems Building

—Alternative models for delivering health services
—Health service networks
—Consortia/cooperative

Meeting the Needs of Special Populations

—Poverty populations
—Racial and cultural groups
—Age groups (e.g., adolescents
—Occupational groups (e.g., farm families)

The Public Health Service urges applicants to submit work plans that address specific objectives of "Healthy People 2000." Potential applicants may obtain a copy of "Health People 2000" (Full Report; Stock No. 017–001–00474–0) or "Healthy People 2000" (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone 202–783–3238).

Center Structure and Mechanism of Support

The ORHP funds are intended to provide basic support for each center. Through the center award, the recipient is reimbursed for such expenses as center administration, development and implementation of the center's research agenda, administrative and research staff support, researcher time (although not necessarily 100% of researcher time), and dissemination mechanisms such as center-sponsored bulletins, in-house publications, and journal articles targeted at the rural health policy audience.

The principal investigator must be an experienced rural health services researcher who can provide administrative and research leadership. The principal investigator will be responsible for the organization and operation of the center, and will provide leadership in the development and realization of the center's research agenda. Personnel and institutional resources capable of developing and maintaining a substantial commitment to rural health services research must be available. At a minimum, the center should consist of core staff with significant time commitments to the center and affiliate staff with lesser time commitments. The center's research team should include multiple disciplines, possess a wide range of skills and have experience in rural health research. Each center is generally expected to share common resources with other components of the applicant institution, including technical, clerical and administrative personnel, and library and computer resources.

Review Procedure

Applications will be assessed by ORHP for responsiveness to this notice. Any applications judged nonresponsive because they are incomplete, inadequately developed, in an improper format, exceed the specified page limit, or otherwise unsuitable for peer review and funding consideration, will be returned without further consideration. All responsive applications will undergo objective review for scientific merit.

Review Criteria

Grant applications will be evaluated on the basis of the following criteria:

- The qualifications and achievements, including level of productivity and quality of research on general health services and rural health, and administrative experience of the principal investigator;
- The qualifications and achievements, including level of productivity and quality of research on general health services, rural health, and the proposed research focus area(s), of the proposed center's senior researchers;
- The appropriateness of the time commitments or the principal investigator and the proposed center's senior researchers;
- The degree to which the center's proposed research agenda, products, and dissemination activities reflect a realistic and well-conceived program in view of available skills, funding resources and health care issues pertinent to rural populations;
- The relevance of the proposed research agenda to rural health policy issues of multi-state and national

concern, and the appropriateness of the planned products and dissemination activities for informing the rural health policy audience;

• The likely effectiveness of the organizational arrangements to operate the proposed center, including the extent to which the applicant has a well-developed plan for quality control of all stages of research projects and a well-developed plan to assure continuing interaction and participation among the center's researchers;

• The appropriateness of the proposed budget;

• The actual and planned level of commitment of the applicant institution to the proposed center, including its specific plans to support the organizational and management structure of the center;

• The past success and future potential of the center's staff in receiving research and organizational funding support from sources other than the core ORHP grant;

• The strength of the relationship(s) of the proposed center with health care providers, relevant departments of state government(s), and other health policy makers in its state and multi-state region.

For Centers Filing a Competing Continuation Application Only

• The level of research productivity and quality demonstrated in the center's record of performance achieved with its ORHP center grant.

Other Information

Applicants may request up to $300,000 per year in total costs (direct plus interest) for the project period which is not to exceed 4 years.

Applicants preparing budget requests for the establishment and operation of new rural health research centers are reminded that the reasonableness of proposed budgets is among the criteria to be used in the review of applications. An applicant for a new rural health research center should seriously consider whether the scope of the proposal calls for the full $300,000 funding amount during the start-up phase of the center. For example, such applicants may need time to fully develop an organizational structure, and design and implement major research projects.

In awarding grants, ORHP will include geographic distribution of centers and diversity of program emphases (e.g., minority health) in its considerations.

Executive Order 12372

The Rural Health Research Centers Grant Program has been determined to be a program which is not subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs.

The OMB Catalog of Federal Domestic Assistance number is 93.155.

Dated: January 7, 1992

Robert G. Harmon,

Administrator.

[FR Doc. 92-5221 Filed 3-5-92; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

Establishment; President's Cancer Panel Special Commission on Breast Cancer

Pursuant to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776), and section 413(b)(7) of the Public Health Service Act, as amended (42 U.S. Code 285a-2(b)(7)), the National Institutes of Health, announces the establishment by the Director, National Cancer Institute, of the President's Cancer Panel Special Commission on Breast Cancer.

The President's Cancer Panel Special Commission on Breast Cancer shall assist and advise the Vice President of the United States, the Director, National Cancer Institute, and the Chair of the President's Cancer Panel on the state of breast cancer research, detection and treatment in the United States and around the world and make recommendations for improvements.

Unless renewed by appropriate action, the President's Cancer Panel Special Commission on Breast Cancer shall terminate two years from the date the charter was approved.

Dated: March 2, 1992.

Bernadine Healy,

Director, National Institutes of Health.

[FR Doc. 92-5248 Filed 3-5-92; 8:45 am]

BILLING CODE 4140-01-M

Social Security Administration

[Social Security Ruling SSR 92-1p]

Request Under the Privacy Act or the Freedom of Information Act for Access to Records and for Disclosure of Material Maintained by the Office of Hearings and Appeals

AGENCY: Social Security Administration, HHS.

ACTION: Notice to Social Security Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 92-1p. This Ruling explains the policy which the Social Security Administration applies in deciding what materials it will release and withhold when, pursuant to the Privacy Act and/or Freedom of Information Act, claimants or their authorized representatives request information or records that may be contained within working files maintained by the Social Security Administration's Hearing Offices and the Appeals Council.

EFFECTIVE DATE: March 6, 1992.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1711.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1).

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivor's Insurance; 93.806 Special Benefits for Disabled Coal Miners; 93.807 Supplemental Security Income.)

Dated: February 19, 1992.

Gwendolyn S. King

Commissioner of Social Security.

Policy Interpretation Ruling—Request Under the Privacy Act or the Freedom of Information Act for Access to Records and for Disclosure of Material Maintained by the Office of Hearings and Appeals

Purpose: To explain the policy which the Social Security Administration (SSA) applies in deciding what

materials it will release and withhold, when, pursuant to the Privacy Act (PA) and/or Freedom of Information Act (FOIA), claimants or their authorized representatives request information or records that may be contained within working files maintained by SSA's Hearing Offices and the Appeals Council (AC).

It is SSA's policy to withhold documents or portions of documents when the materials requested have been compiled in reasonable anticipation of a civil action or proceeding and also are exempt from mandatory disclosure under the FOIA. Under this policy, documents, or portions of documents contained in the working files mentioned above that relate to routine trivial matters, such as routing slips and cover notes, or that are inter-agency or intra-agency memoranda or communications which would not be routinely discoverable in civil litigation, will be withheld when they are requested under the PA and/or the FOIA.

Citations (Authority): Section 1106(a) of the Social Security Act; 5 U.S.C. 552 (a)(3), (b)(2), and (b)(5); 5 U.S.C. 552a (d)(1), (d)(5), (t)(1) and (t)(2); Regulations No. 1, Part 401, Subpart D; Regulations No. 4, section 404.1710, Regulations No. 16, section 416.1510, Regulations No. 22, section 422.416.

Introduction: Claimants or their authorized representatives sometimes seek access to documents prepared in connection with proceedings before an Administrative Law Judge (ALJ), or actions which the AC takes on review of an ALJ decision following the ALJ's disposition of a claim.

Under titles II and XVI of the Social Security Act, a party who has received a partly or wholly unfavorable determination on a claim for benefits has a right to a hearing before an ALJ. The ALJ's decision becomes the final decision of the Secretary unless the AC reviews the matter upon request of a party or on its own motion. Decisions issued by the AC are the final decisions of the Secretary.

Evidentiary documents and information relevant and material to the issues presented in a claim for benefits are made part of the record upon which the ALJ bases a decision. During the course of adjudicating a claim at the hearing level, however, an ALJ may make notes regarding the evidence, testimony, or other factors involved in the case. In addition, the ALJ and staff assigned to assist in case processing may exchange communications expressing opinions and advice regarding the evidence, the merits of the case, and other matters involving the issues presented by the claim. Also, the ALJ usually issues instructions to the staff attorney and other personnel who draft decisions and make corrections or amendments to the drafts prior to issuance.

During an AC review of an ALJ decision, the Administrative Appeals Judges, assisted by its staff, review the decision to verify compliance with the procedural and substantive requirements of the law and regulations, and the accuracy of the ALJ's ultimate findings and conclusions. Communications between Administrative Appeals Judges and staff are common and include instructions, advice and opinions on disposing of the matters at issue.

Communications between both the ALJs and staff and the Administrative Appeals Judges and staff are often reduced to writing and may be maintained in the following Privacy Act systems of records: The Claims Folder System, Administrative Law Judge Working File on Claimant Cases, and Working File of the Appeals Council.

Writings commonly found in ALJ working files include ALJ notes taken during oral hearings, written instructions and opinions, memoranda and draft decisions or orders. AC working files may contain written instructions and opinions, memoranda, case analyses, physician opinions from the AC's Medical Support Staff (MSS), and draft decisions or orders. Both the ALJ working file and the AC working file may contain advisory opinions and other communications prepared by other components of SSA, attorneys in the Office of the General Counsel (OGC) of the Department of Health and Human Services, and attorneys in the Department of Justice.

The above-described writings reflect mental impressions, evaluations, opinions, recommendations, and legal theories, and are commonly known as ALJ or AC working papers. They are used by the ALJs and Administrative Appeals Judges and their staffs during the process of disposing of cases on administrative appeal.

Working papers are used by ALJs and the AC following final disposition of a case to reconstruct the thought processes which led to the final decision if the matter is returned on remand to the deciding official (by the AC in the case of an ALJ, or a court in the case of the AC). The working papers are not evidentiary materials and are not made part of the record upon which a decision is based.

Policy Interpretation: In the past, we usually furnished to claimants and their representatives upon request materials located within our records, including the claim file, ALJ working file and AC working file. We have found, however, that ALJ and AC working papers are increasingly sought for discovery purposes in potential or actual litigation involving review of the agency's decisions. In recent years, therefore, release of ALJ and AC working papers has become a significant issue in view of the potentially harmful consequences to the integrity of the agency's decision-making process and litigation activities. In view of these considerations, we have reconsidered and changed our practice on disclosure of such records.

Every decision to release or withhold working papers covered by this Ruling must comply with the requirements of the PA and the FOIA. The PA states that, subject to certain exemptions, an individual may, "* * * gain access to his record or to any information pertaining to him which is contained in * * * [a system of records and] review the record and have a copy made of all or any portion thereof in a form comprehensible to him * * *" 5 U.S.C. 552a(d)(1). In accordance with this requirement, SSA generally provides, and will continue to provide, information which individuals request about themselves. 20 CFR 401.400. We also generally provide such information to an individual's authorized representative. 20 CFR 404.1710 and 416.1510.

The FOIA states that "* * * each agency upon any request for records which (A) reasonably describes such records and (B) is made in accordance with published rules * * * shall make the records promptly available to any person." 5 U.S.C. 552(a)(3). Social Security regulations stipulate that the FOIA "* * * requires us to disclose any information in our records upon request from the public, unless one of several exemptions in the FOIA applies." 20 CFR 401.215. See also 20 CFR 422.416.

The PA and the FOIA must be considered together. An agency cannot rely on a FOIA exemption to withhold a document "which is otherwise accessible to [an] individual" under the PA, nor may it rely on a PA exemption to withhold records "otherwise accessible" under the FOIA. 5 U.S.C. 552a(t) (1) and (2). Thus, we may withhold only that material which is covered by both a PA exemption and a FOIA exemption.

PA Exemption (d)(5)

PA exemption (d)(5), which excludes access to "information compiled in reasonable anticipation of a civil action or proceeding," applies to the working

papers described above. 5 U.S.C. 552a(d)(5). See 20 CFR 401.400(c).

Before a claim may be reviewed in Federal court under 42 U.S.C. 405(g), the claimant must exhaust all administrative remedies, including ALJ hearing and requesting AC review of the ALJ's decision. See 20 CFR 404.981 and 416.1481. Therefore, a claimant who does not receive a fully favorable decision at the hearing level must seek further review of the claim by the AC before the claim may be reviewed by a Federal court. Since claimants who are unsuccessful before the AC subsequently may appeal to the courts, working papers are maintained not only to address the issues raised at the particular adjudicative level, but also in anticipation that the case may be later appealed to the Federal courts and may be remanded for further administrative action.

The internal communications included within the working papers described above reflect this awareness of potential litigation and contain analyses, predecisional recommendations and strategies for effectively satisfying legal requirements. ALJs and Administrative Appeals Judges take into consideration the sensitivity of such cases and often include in their working papers opinions, recommendations, theories, and mental impressions to ensure an accurate, well reasoned rationale for the decision ultimately made on the matter at issue. In addition, material contained in the working papers is usually consulted in assessing the agency's options and defenses in civil actions challenging an ALJ or AC decision.

Courts have recognized that exemption (d)(5) is applicable to materials compiled in anticipation of quasi-judicial proceedings conducted in an administrative forum as well as materials compiled in anticipation of civil actions conducted in a court. *See Martin* v. *Office of Special Counsel, MSPB*, 819 F.2d 1181 (D.C. Cir. 1987); *Hernandez* v. *Alexander*, 671 F.2d 402 (10th Cir. 1982); *Smiertka* v. *United States Department of the Treasury, etc.*, 447 F. Supp. 221 (D.D.C. 1978). The Social Security regulations governing disclosure of official records and information also interpret the (d)(5) exemption to apply to administrative proceedings by exempting from disclosure "[r]ecords compiled in reasonable anticipation of a court action or formal administrative proceeding." 20 CFR 401.400(c).

Accordingly, exemption (d)(5) is applicable to ALJ and AC working papers maintained in reasonable anticipation of further administrative or court proceedings in the form of AC and Federal court review. If these materials are also exempt from disclosure under the FOIA, as discussed below, they will be withheld.

FOIA Exemptions (b)(2) and (b)(5)

PA exemptions cannot prevent release of information which would otherwise be accessible under the FOIA. The FOIA mandates that an agency provide information in its files upon request from any person, but the FOIA does exempt certain information from disclosure.

Exemption (b)(2) permits the withholding of records "related solely to the internal personnel rules and practices of an agency." 5 U.S.C. 552(b)(2). Routine administrative notes and memoranda, filing and routing instructions, and other trivial administrative materials are exempt from disclosure based on the rationale that the public would have no significant interest in them and the very process of releasing such materials would be an unwarranted administrative burden. Thus, routine administrative materials contained within ALJ and AC working papers are exempted from access by claimants and their representatives to the extent that the materials meet the requirements of PA exemption (d)(5) and FOIA exemption (b)(2).

FOIA exemption (b)(5) exempts from disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. 552(b)(5). This exemption protects materials which would not be routinely discoverable in civil litigation. Portions of ALJ and AC working files containing such inter-agency or intra-agency communications are covered under this exemption.

With few exceptions, the materials in ALJ working files and AC working files contain inter-agency and intra-agency communications, such as instructions to staff, analyses, recommendations, draft decisions, and other matter exchanged during the deliberative stages of the decision-making process between deciding officials and their respective support, technical or professional staffs, and among staff members. These files may also contain communications with OGC and the Department of Justice. Thus, the working files contain materials which satisfy the description of "inter-agency or intra-agency memorandums or letters."

The (b)(5) exemption encompasses several traditional privileges commonly invoked to protect documents from discovery in litigation, including the deliberative process privilege, the attorney-client privilege and the work product privilege. It is well established that predecisional communications between Federal employees or officials that are part of the deliberative process leading to governmental decisions are protected under the deliberative process privilege. See, *e.g.*, *N.L.R.B.* v. *Sears, Roebuck & Co.*, 421 U.S. 132 (1975); *Russell* v. *Department of the Air Force*, 682 F.2d 1045 (D.C. Cir. 1982). Documents are covered by the privilege to the extent that they contain advisory opinions, recommendations, deliberations, evaluations, drafts, and similar predecisional exchanges between government employees and officials engaged in the decision-making process. This privilege is intended to: (1) Encourage frank and open discussion among decision makers and persons assisting them on the matters at issue; (2) protect against disclosure of proposed decisions before they are adopted; and (3) protect against the confusion and misunderstanding that might result from disclosure of reasons or rationales that were not ultimately the grounds for an agency's action.

The ALJ hearing process and the AC review are both deliberative processes which result in final agency decisions. An ALJ's decision on a claim becomes final if the AC does not review the decision. When the AC does accept a case for review, its decision becomes the agency's final decision. The working papers exchanged during the deliberative stages of an ALJ's or the AC's decision-making process are by definition predecisional communications which are part of a deliberative process protected by the privilege.

Release of predecisional communications would be an unwarranted intrusion into the agency's deliberative process. There is a need for full and uninhibited discussion of the issues involved in Social Security cases between the decision makers and their staffs because of the complex factual situations and the sensitive nature of the process involved in weighing evidence, determining credibility and satisfying criteria established by statute, regulation, and judicial precedent. Likewise, there is a real danger that disclosure of discussions, reasons, and rationale which did not in fact constitute the basis for the agency's ultimate decision would cause confusion and misunderstanding. The purposes of the

deliberative process privilege are served by protecting this type of material.

Therefore, we will invoke the deliberative process privilege when we receive requests for such predecisional communications. As required by the FOIA and judicial interpretations of that statute, however, factual material presented in these communications shall be released unless it is inextricably intertwined with exempt material and would reveal the opinions, recommendations, deliberations, and evaluations protected by the exemption.

The attorney-client and work product privileges are other traditional privileges incorporated into exemption (b)(5). The attorney-client privilege functions to protect the confidential communications of the client, including a Federal agency, and its attorney relating to a matter on which the client seeks advice. The attorney-client privilege is not limited to situations involving litigation. The communications of a client seeking legal advice and the resulting opinion provided by the attorney are generally protected. The underlying purpose of the privilege is to preserve the confidentiality of client communications and encourage full and frank attorney-client discussions.

The work product privilege covers materials created or prepared by a party's attorney or another representative of a party in anticipation of litigation. In particular, the work product privilege protects mental impressions, conclusions, opinions, legal theories and strategies.

We will invoke the attorney-client and work product privileges as appropriate when we receive requests under the FOIA and PA for confidential communications between the Agency and its attorneys, materials which set forth mental impressions, case theories or strategies and materials which request or provide legal advice.

Conclusion: ALJ and AC working papers, in whole or in part, may be withheld by the Social Security Administration under exemption (d)(5) of the Privacy Act and exemptions (b)(2) and (b)(5) of the Freedom of Information Act. We have determined to withhold such exempt materials from claimants and their authorized representatives because withholding serves valid and important governmental and public policy interests.

[FR Doc. 92–5235 Filed 3–5–92; 8:45 am]
BILLING CODE 4190–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–92–1917; FR–2934–N–68]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Corps of Engineers: Bob Swieconek, Army Corps of Engineers, Civilian Facilities, rm. 5138, 20 Massachusetts Ave. NW., Washington,

DC 20314–1000; (202) 272–1750; U.S. Navy: John J. Kane, Deputy Division Director, Dept. of Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300; (202) 325–0474; (Three are not toll-free numbers).

Correction: The Dry Hill Family Housing properties in Watertown, New York, that were published in the February 14, 1992 notice are not available for homeless assistance use.

Dated: February 27, 1992.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 03/06/92

Suitable/Available Properties

Buildings (by State)

Alabama

Bldg. TU–43
Millers Ferry Lock and Dam
Route 1, Box 102
Camden Co: Wilcox, AL 36726–
Landholding Agency: COE
Property Number: 319011549
Status: Unutilized
Comment: 1000 sq. ft.; 1 story frame residence; needs minor repair; most recent use—lock tender's dwelling.

Bldgs. TU–21–TU–24
Selden Lock and Dam
Route 1
Sawyerville Co: Hale, AL 36776–
Landholding Agency: COE
Property Number: 319011551–319011554
Status: Unutilized
Comment: 1080 sq. ft.; 1 story frame residence; needs minor repair; most recent use—lock tender's dwelling.

Bldg. TU–15
Coffeeville Lock and Dam
Star Route Box 77
Blandon Springs Co: Choctaw, AL 36919–
Landholding Agency: COE
Property Number: 319011556
Status: Unutilized
Comment: 1547 sq. ft.; 1 story frame residence; most recent use—lock tender's dwelling.

California

Santa Fe Flood Control Basin
Irwindale Co: Los Angeles, CA 91706–
Landholding Agency: COE
Property Number: 319011298
Status: Unutilized
Comment: 1400 sq. ft.; 1 story stucco; needs rehab; termite damage; secured area with alternative access.

Colorado

Kendall House, Bear Creek Lake
Hwy 8 or Morrison Rd.
Lakewood Co: Jefferson, CO 80201–
Location: 2 mi. west of Kipling Intersection
Landholding Agency: COE
Property Number: 319140001
Status: Excess
Comment: 2400 sq. ft., 2 story with basement, needs rehab, presence of asbestos, off-site use only.

Florida

Bldg. CN–3
1651 S. Franklin Lock Road
Alva Co: Lee, FL 33920–
Landholding Agency: COE
Property Number: 319130006
Status: Unutilized
Comment: 1500 sq. ft., 1 story concrete block residence, off-site use only.

Idaho

Bldg.
Albeni Falls Dam
U.S. Highway 2, Priest River
Bonner Co: Bonner, ID 83856–
Location: 3½ miles west of Priest River.
Landholding Agency: COE
Property Number: 319110028
Status: Unutilized
Comment: 2989 sq. ft.; 3 story log construction with wood frame; off-site removal only; needs rehab.

Indiana

Bldgs. 01, 02—Monroe Lake
Monroe Cty. Rd. 37 North to Monroe Dam Rd.
Bloomington Co: Monroe, IN 47401–8772
Landholding Agency: COE
Property Number: 319140002–319140003
Status: Unutilized
Comment: 1312 sq. ft., 1 story brick residence, off-site use only.

Kentucky

Green River Lock & Dam #3
Rochester Co: Butler, KY 42273–
Location: SR 70 west from Morgantown, KY., approximately 7 miles to site.
Landholding Agency: COE
Property Number: 319010022
Status: Unutilized
Comment: 980 sq. ft.; 2 story wood frame; two story residence; potential utilities; needs major rehab.

Maine

Naval Air Station
Transmitter Site
Old Bath Road
Brunswick Co: Cumberland, ME 04053–
Landholding Agency: Navy
Property Number: 779010110
Status: Underutilized
Comment: 7,270 sq. ft., 1 story bldg, most recent use—storage, structural deficiencies.

Minnesota

Orwell Dam Reservoir
RFD #4, Box 100
Fergus Falls Co: Ottertail, MN 56537–
Location: Off highway 210, 12 miles from Fergus Falls.
Landholding Agency: COE
Property Number: 319011039
Status: Unutilized
Comment: 1040 sq. ft.; frame house; possible asbestos; potential utilities.

New Mexico

Bldg. 3W
Conchas Lake Project
(See County) Co: San Miquel, NM 88416–
Landholding Agency: COE
Property Number: 319011507
Status: Underutilized
Comment: 1000 sq. ft.; 1 story adobe residence; intermittently occupied.

Ohio

Barker Historic House
Willow Island Locks and Dam
Newport Co: Washington, OH 45768–9801
Location: Located at lock site, downstream of lock and dam structure
Landholding Agency: COE
Property Number: 319120018
Status: Unutilized
Comment: 1600 sq. ft. bldg. with ½ acre of land, 2 story brick frame, needs rehab, on Natl Register of Historic Places, no utilities, off-site use only

South Carolina

Bldgs. 1–5
J. S. Thurmond Dam and Reservoir
Clarks Hill Co: McCormick, SC 29821–
Location: ½ mile east of Resource Managers Office.
Landholding Agency: COE
Property Number: 319011544–319011548
Status: Excess
Comment: 1900 sq. ft.; 1 story masonry frame; possible asbestos; most recent use—storage.

Wisconsin

Former Lockmaster's Dwelling
Cedar Locks
4527 East Wisconsin Road
Appleton Co: Outagamie, WI 54911–
Landholding Agency: COE
Property Number: 319011524
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Appleton 4th Lock
905 South Lowe Street
Appleton Co: Outagamie, WI 54911–
Landholding Agency: COE
Property Number: 319011525
Status: Unutilized
Comment: 908 sq. ft.; 2 story wood frame residence; needs rehab.

Former Lockmaster's Dwelling
Kaukauna 1st Lock
301 Canal Street
Kaukauna Co: Outagamie, WI 54131–
Landholding Agency: COE
Property Number: 319011527
Status: Unutilized
Comment: 1290 sq. ft.; 2 story wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Appleton 1st Lock
905 South Oneida Street
Appleton Co: Outagamie, WI 54911–
Landholding Agency: COE
Property Number: 319011531
Status: Unutilized
Comment: 1300 sq. ft.; potential utilities; 2 story wood frame residence; needs rehab; secured area with alternate access.

Former Lockmaster's Dwelling
Rapid Croche Lock
Lock Road

Wrightstown Co: Outagamie, WI 54180–
Location: 3 miles southwest of intersection State Highway 96 and Canal Road.
Landholding Agency: COE
Property Number: 319011533
Status: Unutilized
Comment: 1952 sq. ft.; 2 story wood frame residence; potential utilities; needs rehab.

Former Lockmaster's Dwelling
Little KauKuana Lock
Little KauKuana
Lawrence Co: Brown, WI 54130–
Location: 2 miles southeasterly from intersection of Lost Dauphin Road (County Trunk Highway "D") and River Street.
Landholding Agency: COE
Property Number: 319011535
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab.

Former Lockmaster's Dwelling
Little Chute, 2nd Lock
214 Mill Street
Little Chute Co: Outagamie, WI 54140–
Landholding Agency: COE
Property Number: 319011536
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; potential utilities; needs rehab; secured area with alternate access.

Land (by State)

Arkansas

Parcel 01
DeGray Lake
Section 12
Arkadelphia Co: Clark, AR 71923–9361
Landholding Agency: COE
Property Number: 319010071
Status: Unutilized
Comment: 77.6 acres.

Parcel 02
DeGray Lake
Section 13
Arkadelphia Co: Clark, AR 71923–9361
Landholding Agency: COE
Property Number: 319010072
Status: Unutilized
Comment: 198.5 acres.

Parcel 03
DeGray Lake
Section 18
Arkadelphia Co: Clark, AR 71923–9361
Landholding Agency: COE
Property Number: 319010073
Status: Unutilized
Comment: 50.46 acres.

Parcel 04
DeGray Lake
Section 24, 25, 30 and 31
Arkadelphia Co: Clark, AR 71923–9361
Landholding Agency: COE
Property Number: 319010074
Status: Unutilized
Comment: 236.37 acres.

Parcel 05
DeGray Lake
Section 16
Arkadelphia Co: Clark, AR 71923–9361
Landholding Agency: COE
Property Number: 319010075
Status: Unutilized
Comment: 187.30 acres.

Parcel 06
DeGray Lake
Section 13
Arkadelphia Co: Clark, AR 71923–9361
Landholding Agency: COE
Property Number: 319010076
Status: Unutilized
Comment: 13.0 acres.

Parcel 07
DeGray Lake
Section 34
Arkadelphia Co: Hot Spring, AR 71923–9361
Landholding Agency: COE
Property Number: 319010077
Status: Unutilized
Comment: 0.27 acres.

Parcel 08
DeGray Lake
Section 13
Arkadelphia Co: Clark, AR 71923–9361
Landholding Agency: COE
Property Number: 319010078
Status: Unutilized
Comment: 14.6 acres.

Parcel 09
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring, AR 71923–9361
Landholding Agency: COE
Property Number: 319010079
Status: Unutilized
Comment: 6.60 acres

Parcel 10
DeGray Lake
Section 12
Arkadelphia Co: Hot Spring, AR 71923–9361
Landholding Agency: COE
Property Number: 319010080
Status: Unutilized
Comment: 4.5 acres

Parcel 11
DeGray Lake
Section 19
Arkadelphia Co: Hot Spring, AR 71923–9361
Landholding Agency: COE
Property Number: 319010081
Status: Unutilized
Comment: 19.50 acres

Lake Greeson
Sections 7, 8 and 18
Murfreesboro Co: Pike, AR 71958–9720
Landholding Agency: COE
Property Number: 319010083
Status: Unutilized
Comment: 46 acres

California

Lake Mendocino
Sections 7, 8 and 18
1160 Lake Mendocino Drive
Ukiah Co: Mendocino, CA 95482–9404
Landholding Agency: COE
Property Number: 319011015
Status: Unutilized
Comment: 20 acres; steep, dense brush; potential utilities.

New Hogan Lake
2713 Hogan Dam Road
Valley Springs Co: Calaveras, CA 95252–0128
Landholding Agency: COE
Property Number: 319011017
Status: Unutilized
Comment: 3.08 acres; potential utilities; brush covered.

Georgia

Naval Submarine Base
Grid R–2 to R–3 to V–4 to V–1
Kings Bay Co: Camden, GA 31547–
Landholding Agency: Navy
Property Number: 779010229
Status: Underutilized
Comment: 111.57 acres; areas may be environmentally protected; secured area with alternate access.

Kansas

Parcel 1
El Dorado Lake
Sections 13, 24, and 18
(See County) Co: Butler, KS
Landholding Agency: COE
Property Number: 319010064
Status: Unutilized
Comment: 61 acres; most recent use—recreation.

Kentucky

Tract 2625
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg, KY 42211–
Location: Adjoining the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010025
Status: Excess
Comment: 2.57 acres; rolling and wooded.

Tract 2709–10 and 2710–2
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg, KY 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010026
Status: Excess
Comment: 2.00 acres; steep and wooded.

Tract 2708–1 and 2709–1
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg, KY 42211–
Location: 2½ miles in a southerly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010027
Status: Excess
Comment: 3.59 acres; rolling and wooded; no utilities.

Tract 2800
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg, KY 42211–
Location: 4½ miles in a southeasterly direction from the village of Rockcastle.
Landholding Agency: COE
Property Number: 319010028
Status: Excess
Comment: 5.44 acres; steep and wooded.

Tract 2915
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg, KY 42211–
Location: 6½ miles west of Cadiz.
Landholding Agency: COE
Property Number: 319010029
Status: Excess
Comment: 5.76 acres; steep and wooded; no utilities.

Tract 2702
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg, KY 42211–
Location: 1 miles in a southerly direction from the village of Rockcastle.
Landholding Agency: COE

Property Number: 319010031
Status: Excess
Comment: 4.90 acres; wooded; no utilities.

Tract 4318
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg, KY 42212–
Location: Trigg Co. adjoining the city of Canton, KY. on the waters of Hopson Creek.
Landholding Agency: COE
Property Number: 319010032
Status: Excess
Comment: 8.24 acres; steep and wooded.

Tract 4502
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg, KY 42211–
Location: 3½ miles in a southerly direction from Canton, KY.
Landholding Agency: COE
Property Number: 319010033
Status: Excess
Comment: 4.26 acres; steep and wooded.

Tract 4611
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg, KY 42212–
Location: 5 miles south of Canton, KY.
Landholding Agency: COE
Property Number: 319010034
Status: Excess
Comment: 10.51 acres; steep and wooded; no utilities.

Tract 4619
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg, KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319010035
Status: Excess
Comment: 2.02 acres; steep and wooded; no utilities.

Tract 4817
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg, KY 42212–
Location: 6½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319010036
Status: Excess
Comment: 1.75 acres; wooded.

Tract 1217
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon, KY 42030–
Location: On the north side of the Illinois Central Railroad.
Landholding Agency: COE
Property Number: 319010042
Status: Excess
Comment: 5.80 acres; steep and wooded.

Tract 1906
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon, KY 42030–
Location: Approximately 4 miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010044
Status: Excess
Comment: 25.86 acres; rolling steep and partially wooded; no utilities.

Tract 1907
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon, KY 42038–
Location: On the waters of Pilfen Creek, 4 miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010045
Status: Excess
Comment: 8.71 acres; rolling steep and wooded; no utilities.

Tract 2001 #1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon, KY 42030–
Location: Approximately 4½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010046
Status: Excess
Comment: 47.42 acres; steep and wooded; no utilities.

Tract 2001 #2
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon, KY 42030–
Location: Approximately 4½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010047
Status: Excess
Comment: 8.64 acres; steep and wooded; no utilities.

Tract 2005
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon, KY 42030–
Location: Approximately 5½ miles east of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010048
Status: Excess
Comment: 4.62 acres; steep and wooded; no utilities.

Tract 2307
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon, KY 42030–
Location: Approximately 7½ miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010049
Status: Excess
Comment: 11.43 acres; steep; rolling and wooded; no utilities.

Tract 2403
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon, KY 42030–
Location: 7 miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010050
Status: Excess
Comment: 1.56 acres; steep and wooded; no utilities.

Tract 2504
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon, KY 42030–
Location: 9 miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010051
Status: Excess
Comment: 24.46 acres; steep and wooded; no utilities.

Tract 214
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon, KY 42045–
Location: South of the Illinois Central Railroad, 1 mile east of the Cumberland River.
Landholding Agency: COE
Property Number: 319010052
Status: Excess
Comment: 5.5 acres; wooded; no utilities.

Tract 215
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon, KY 42045–
Location: 5 miles southwest of Kuttawa.
Landholding Agency: COE
Property Number: 319010053
Status: Excess
Comment: 1.40 acres; wooded; no utilities.

Tract 241
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon, KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319010054
Status: Excess
Comment: 1.26 acres; steep and wooded; no utilities.

Tracts 306, 311, 315 and 325
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon, KY 42045–
Location: 2.5 miles southwest of Kuttawa, KY. on the waters of Cypress Creek.
Landholding Agency: COE
Property Number: 319010055
Status: Excess
Comment: 38.77 acres; steep and wooded; no utilities.

Tracts 2305, 2306, and 2400–1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon, KY 42030–
Location: 6½ miles southeasterly of Eddyville, KY.
Landholding Agency: COE
Property Number: 319010056
Status: Excess
Comment: 97.66 acres; steep rolling and wooded; no utilities.

Tract 500–2
Barkley Lake, Kentucky and Tennessee
Kuttawa Co: Lyon, KY 42055–
Location: Situated on the waters of Poplar Creek, approximately 1 mile southwest of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319010057
Status: Excess
Comment: 3.58 acres; hillside ridgeland and wooded; no utilities.

Tracts 5203 and 5204
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg, KY 42212–
Location: Village of Linton, KY state highway 1254.
Landholding Agency: COE
Property Number: 319010058
Status: Excess
Comment: 0.93 acres; rolling, partially wooded; no utilities.

Tract 5240
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg, KY 42212–
Location: 1 mile northwest of Linton, KY.
Landholding Agency: COE
Property Number: 319010059
Status: Excess
Comment: 2.26 acres; steep and wooded; no utilities.

Tract 4628
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg, KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319011621
Status: Excess

Comment: 3.71 acres; steep and wooded; subject to utility easements.

Tract 4619–B
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg, KY 42212–
Location: 4½ miles south from Canton, KY.
Landholding Agency: COE
Property Number: 319011622
Status: Excess
Comment: 1.73 acres; steep and wooded; subject to utility easements.

Tract 2403–B
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon, KY 42038–
Location: 7 miles southeasterly from Eddyville, KY.
Landholding Agency: COE
Property Number: 319011623
Status: Unutilized
Comment: 0.70 acres, wooded; subject to utility easements.

Tract 241–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon, KY 42045–
Location: South of Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319011624
Status: Excess
Comment: 11.16 acres; steep and wooded; subject to utility easements.

Tracts 212 and 237
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon, KY 42045–
Location: Old Henson Ferry Road, 6 miles west of Kuttawa, KY.
Landholding Agency: COE
Property Number: 319011625
Status: Excess
Comment: 2.44 acres; steep and wooded; subject to utility easements.

Tract 215–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon, KY 42045–
Location: 5 miles southwest of Kuttawa.
Landholding Agency: COE
Property Number: 319011626
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract 233
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon, KY 42045–
Location: 5 miles southwest of Kuttawa.
Landholding Agency: COE
Property Number: 319011627
Status: Excess
Comment: 1.00 acres; wooded; subject to utility easements.

Tract N–819
Dale Hollow Lake & Dam Project
Illwill Creek, Hwy 90
Hobart Co: Clinton, KY 42601–
Landholding Agency: COE
Property Number: 319140009
Status: Underutilized
Comment: 91 acres, most recent use—hunting, subject to existing easements.

Louisiana

Wallace Lake Dam and Reservoir
Shreveport Co: Caddo, LA 71103–
Landholding Agency: COE
Property Number: 319011009
Status: Unutilized
Comment: 11 acres; wildlife/forestry; no utilities.

Bayou Bodcau Dam and Reservoir
Haughton Co: Caddo, LA 71037–9707
Location: 35 miles Northeast of Shreveport, LA.
Landholding Agency: COE
Property Number: 319011010
Status: Unutilized
Comment: 203 acres; wildlife/forestry; no utilities.

Maine

Naval Air Station
Transmitter Site
Old Bath Road
Brunswick, Co: Cumberland, ME 04053–
Landholding Agency: Navy
Property Number: 779010111
Status: Underutilized
Comment: 66.13 acres, most recent use—transmitter station.

Minnesota

Parcel D
Pine River
Cross Lake, Co: Crow Wing, MN 56442–
Location: 3 miles from city of Cross Lake, between highways 6 and 371.
Landholding Agency: COE
Property Number: 319011038
Status: Excess
Comment: 17 acres; no utilities.

Tract 92
Sandy Lake
McGregor Co: Aitkins, MN 55760–
Location: 4 miles west of highway 65, 15 miles from city of McGregor.
Landholding Agency: COE
Property Number: 319011040
Status: Excess
Comment: 4 acres; no utilities.

Tract 98
Leech Lake
Benedict Co: Hubbard, MN 56641–
Location: 1 mile from city of Federal Dam, MN.
Landholding Agency: COE
Property Number: 319011041
Status: Excess
Comment: 7.3 acres; no utilities.

Mississippi

Parcel 7
Grenada Lake
Sections 22, 23, T24N
Grenada Co: Yalobusha, MS 38901–0903
Landholding Agency: COE
Property Number: 319011019
Status: Underutilized
Comment: 100 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 8
Grenada Lake
Section 20, T24N
Grenada Co: Yalobusha, MS 38901–0903
Landholding Agency: COE
Property Number: 319011020
Status: Underutilized
Comment: 30 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 9
Grenada Lake
Section 20, T24N, R7E
Grenada Co: Yalobusha, MS 38901–0903
Landholding Agency: COE
Property Number: 319011021
Status: Underutilized
Comment: 23 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 10
Grenada Lake
Sections 16, 17, 18, T24N, R8E
Grenada Co: Calhoun, MS 38901–0903
Landholding Agency: COE
Property Number: 319011022
Status: Underutilized
Comment: 490 acres; no utilities; intermittently used under lease—expires 1994.

Parcel 2
Grenada Lake
Section 20 and T23N, R5E
Grenada Co: Yalobusha, MS 38901–0903
Landholding Agency: COE
Property Number: 319011023
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 3
Grenada Lake
Section 4, T23N, R5E
Grenada Co: Yalobusha, MS 38901–0903
Landholding Agency: COE
Property Number: 319011024
Status: Underutilized
Comment: 120 acres; no utilities; most recent use—wildlife and forestry management; (13.5 acres/agriculture lease).

Parcel 4
Grenada Lake
Sections 2 and 3, T23N, R5E
Grenada Co: Yalobusha, MS 38901–0903
Landholding Agency: COE
Property Number: 319011025
Status: Underutilized
Comment: 60 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 5
Grenada Lake
Section 7, T24N, R6E
Grenada Co: Yalobusha, MS 38901–0903
Landholding Agency: COE
Property Number: 319011026
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management; (14 acres/agriculture lease).

Parcel 6
Grenada Lake
Section 9, T24N, R6E
Grenada Co: Yalobusha, MS 38903–0903
Landholding Agency: COE
Property Number: 319011027
Status: Underutilized
Comment: 80 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 11
Grenada Lake
Section 20, T24N, R8E
Grenada Co: Calhoun, MS 38901–0903
Landholding Agency: COE
Property Number: 319011028
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 12
Grenada Lake

Section 25, T24N, R7E
Grenada Co: Yalobusha, MS 38390–0903
Landholding Agency: COE
Property Number: 319011029
Status: Underutilized
Comment: 30 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 13
Grenada Lake
Section 34, T24N, R7E
Grenada Co: Yalobusha, MS 38903–0903
Landholding Agency: COE
Property Number: 319011030
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management; (11 acres/agriculture lease).

Parcel 14
Grenada Lake
Section 3, T23N, R6E
Grenada Co: Yalobusha, MS 38901–0903
Landholding Agency: COE
Property Number: 319011031
Status: Underutilized
Comment: 15 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 15
Grenada Lake
Section 4, T24N, R6E
Grenada Co: Yalobusha, MS 38901–0903
Landholding Agency: COE
Property Number: 319011032
Status: Underutilized
Comment: 40 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 16
Grenada Lake
Section 9, T23N, R6E
Grenada Co: Yalobusha, MS 38901–0903
Landholding Agency: COE
Property Number: 319011033
Status: Underutilized
Comment: 70 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 17
Grenada Lake
Section 17, T23N, R7E
Grenada Co: Grenada, MS 28901–0903
Landholding Agency: COE
Property Number: 319011034
Status: Underutilized
Comment: 35 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 18
Grenada Lake
Section 22, T23N, R7E
Grenada Co: Grenada, MS 28902–0903
Landholding Agency: COE
Property Number: 319011035
Status: Underutilized
Comment: 10 acres; no utilities; most recent use—wildlife and forestry management.

Parcel 19
Grenada Lake
Section 9, T22N, R7E
Grenada Co: Grenada, MS 38901–0903
Landholding Agency: COE
Property Number: 319011036
Status: Underutilized
Comment: 20 acres; no utilities; most recent use—wildlife and forestry management.

Missouri

Harry S. Truman Dam & Reservoir
Warsaw Co: Benton, MO 65355–
Location: Triangular shaped parcel southwest of access road "B", part of Bledsoe Ferry Park Tract 150.
Landholding Agency: COE
Property Number: 319030014
Status: Underutilized
Comment: 1.7 acres; potential utilities.

Ohio

Hannibal Locks and Dam
Ohio River
P.O. Box 8
Hannibal Co: Monroe, OH 43931–0008
Location: Adjacent to the new Martinsville Bridge.
Landholding Agency: COE
Property Number: 319010015
Status: Underutilized
Comment: 22 acres; river bank

Oklahoma

Pacel No. 8
Fort Gibson Lake
Section 22, Co: Cherokee, OK
Landholding Agency: COE
Property Number: 219013801
Status: Underutilized
Comment: 5 acres; bushy and timbered; subject to grazing lease.

Parcel No. 9
Fort Gibson Lake
Section 16, Co: Cherokee, OK
Landholding Agency: COE
Property Number: 219013802
Status: Underutilized
Comment: 7.5 acres; rolling; relatively open; subject to grazing lease; most recent use—recreation.

Parcel No. 10
Fort Gibson Lake
Section 16, Co: Cherokee, OK
Landholding Agency: COE
Property Number: 219013803
Status: Underutilized
Comment: 36 acres; rolling; relatively open; subject to grazing lease; most recent use—recreation.

Parcel No. 11
Fort Gibson Lake
Section 16, Co: Cherokee, OK
Landholding Agency: COE
Property Number: 219013804
Status: Underutilized
Comment: 60.34 acres; semi open with trees; most recent use—recreation.

Parcel No. 12
Fort Gibson Lake
Section 16, (See County) Co: Cherokee, OK
Landholding Agency: COE
Property Number: 219013805
Status: Underutilized
Comment: 6 acres; flat and open; subject to grazing lease; most recent use—recreation.

Parcel No. 13
Fort Gibson Lake
Section 21, (See County) Co: Cherokee, OK
Landholding Agency: COE
Property Number: 219013806
Status: Underutilized
Comment: 7 acres; flat and open; subject to grazing lease; most recent use—recreation.

Parcel No. 17
Fort Gibson Lake
Section 12
Wagoner Co. Co: Wagoner, OK
Landholding Agency: COE
Property Number: 219013807
Status: Underutilized
Comment: 25.09 acres; flat with trees; subject to grazing lease; most recent use—recreation.

Parcel No. 18
Fort Gibson Lake
Section 12
Wagoner Co. Co: Wagoner, OK
Landholding Agency: COE
Property Number: 219013808
Status: Underutilized
Comment: 8.77 acres; subject to grazing lease; most recent use—recreation.

Parcel No. 22
Fort Gibson Lake
Sections 16 and 21
Wagoner Co. Co: Wagoner, OK
Landholding Agency: COE
Property Number: 219013809
Status: Underutilized
Comment: 177.84 acres; rolling with timbered and open areas; subject to grazing lease; most recent use—recreation.

Parcel No. 32
Fort Gibson Lake
Section 2
Co: Mayes, OK
Landholding Agency: COE
Property Number: 219013810
Status: Underutilized
Comment: 22 acres; rolling and open; subject to grazing lease; most recent use—recreation.

Parcel No. 33
Fort Gibson Lake
Section 4
Co: Mayes, OK
Landholding Agency: COE
Property Number: 219013811
Status: Underutilized
Comment: 18 acres; flat and open; subject to grazing lease; most recent use—recreation.

Parcel No. 34
Fort Gibson Lake
Section 34
Co: Mayes, OK
Landholding Agency: COE
Property Number: 219013812
Status: Underutilized
Comment: 18 acres; hilly-timbered; subject to grazing lease; most recent use—recreation.

Parcel No. 36
Fort Gibson Lake
Section 12
Co: Mayes, OK
Landholding Agency: COE
Property Number: 219013813
Status: Underutilized
Comment: 19 acres; subject to grazing lease; most recent use—recreation.

Parcel No. 38
Fort Gibson Lake
Sections 7 and 8
Co: Mayes, OK
Landholding Agency: COE
Property Number: 219013814
Status: Underutilized
Comment: 97.39 acres; rolling, partially open with trees; subject to grazing lease; most recent use—recreation.

Parcel No. 40
Fort Gibson Lake

Section 5
Co: Mayes, OK
Landholding Agency: COE
Property Number: 219013815
Status: Underutilized
Comment: 42 acres; timber; subject to grazing lease; most recent use—recreation.

Parcel No. 41
Fort Gibson Lake
Section 5
Co: Mayes, OK
Landholding Agency: COE
Property Number: 219013816
Status: Underutilized
Comment: 10 acres; some trees; subject to grazing lease; most recent use—recreation.

Pine Creek Lake
Section 27
Co: McCurtain, OK
Landholding Agency: COE
Property Number: 319010923
Status: Unutilized
Comment: 3 acres; no utilities; subject to right of way for Oklahoma State Highway 3.

Pennsylvania

Mahoning Creek Lake
New Bethlehem Co: Armstrong, PA 16242–9603
Location: Route 28 north to Belknap, Road No. 4
Landholding Agency: COE
Property Number: 319010018
Status: Excess
Comment: 2.58 acres; steep and densely wooded.

Tracts 610, 611, 612
Shenango River Lake
Sharpsville Co: Mercer PA 16150–
Location: I–79 North, I–80 West, Exit Sharon. R18 North 4 miles, left on R518, right on Mercer Avenue.
Landholding Agency: COE
Property Number: 319011001
Status: Excess
Comment: 24.09 acres; subject to flowage easement.

Tracts L24, L26
Crooked Creek Lake
(See County) Co: Armstrong PA 03051–
Location: Left bank—55 miles downstream of dam.
Landholding Agency: COE
Property Number: 319011011
Status: Unutilized
Comment: 7.89 acres; potential for utilities.

Tennessee

Tract 6827
Barkley Lake
Dover Co: Stewart, TN 37058–
Location: 2½ miles west of Dover, TN.
Landholding Agency: COE
Property Number: 319010927
Status: Excess
Comment: .57 acres; subject to existing easements.

Tracts 6002–2 and 6010
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 3½ miles south of village of Tabaccoport.
Landholding Agency: COE
Property Number: 319010928
Status: Excess
Comment: 100.86 acres; subject to existing easements.

Tract 11516
Barkley Lake
Ashland City Co: Dickson, TN 37015–
Location: ½ mile downstream from Cheatham Dam
Landholding Agency: COE
Property Number: 319010929
Status: Excess
Comment: 26.25 acres; subject to existing easements.

Tract 2319
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford, TN 37130–
Location: West of Buckeye Bottom Road
Landholding Agency: COE
Property Number: 319010930
Status: Excess
Comment: 14.48 acres; subject to existing easements.

Tract 2227
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford, TN 371130–
Location: Old Jefferson Pike
Landholding Agency: COE
Property Number: 319010931
Status: Excess
Comment: 2.27 acres; subject to existing easements.

Tract 2107
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford, TN 37130–
Location: Across Fall Creek near Fall Creek camping area.
Landholding Agency: COE
Property Number: 319010932
Status: Excess
Comment: 14.85 acres; subject to existing easements.

Tracts 2601, 2602, 2603, 2604
Cordell Hull Lake and Dam Project
Doe Row Creek
Gainesboro Co: Jackson, TN 38562–
Location: TN Highway 56
Landholding Agency: COE
Property Number: 319010933
Status: Unutilized
Comment: 11 acres; subject to existing easements.

Tract 1911
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford, TN 37130–
Location: East of Lamar Road
Landholding Agency: COE
Property Number: 319010934
Status: Excess
Comment: 15.31 acres; subject to existing easements.

Tract 2321
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford, TN 37130–
Location: South of Old Jefferson Pike
Landholding Agency: COE
Property Number: 319010935
Status: Excess
Comment: 12 acres; subject to existing easements.

Tract 7206
Barkley Lake
Dover Co: Stewart TN 37058–
Location: 2½ miles SE of Dover, TN.
Landholding Agency: COE
Property Number: 319010936
Status: Excess
Comment: 10.15 acres; subject to existing easements.

Tracts 8813, 8814
Barkley Lake
Cumberland Co: Stewart, TN 37050–
Location: 1½ miles East of Cumberland City.
Landholding Agency: COE
Property Number: 319010937
Status: Excess
Comment: 96 acres; subject to existing easements.

Tract 8911
Barkley Lake
Cumberland City Co: Montgomery, TN 37050–
Location: 4 miles east of Cumberland City.
Landholding Agency: COE
Property Number: 319010938
Status: Excess
Comment: 7.7 acres; subject to existing easements.

Tract 11503
Barkley Lake
Ashland City Co: Cheatham, TN 37015–
Location: 2 miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 319010939
Status: Excess
Comment: 1.1 acres; subject to existing easements.

Tracts 11523, 11524
Barkley Lake
Ashland City Co: Cheatham, TN 37015–
Location: 2½ miles downstream from Cheatham Dam.
Landholding Agency: COE
Property Number: 319010940
Status: Excess
Comment: 19.5 acres; subject to existing easements.

Tract 6410
Barkley Lake
Bumpus Mills Co: Stewart, TN 37028–
Location: 4½ miles SW. of Bumpus Mills.
Landholding Agency: COE
Property Number: 319010941
Status: Excess
Comment: 17 acres; subject to existing easements.

Tract 9707
Barkley Lake
Palmyer Co: Montgomery, TN 37142–
Location: 3 miles NE of Palmyer, TN. Highway 149
Landholding Agency: COE
Property Number: 319010943
Status: Excess
Comment: 6.6 acres; subject to existing easements.

Tract 6949
Barkley Lake
Dover Co: Stewart, TN 37058–
Location: 1½ miles SE of Dover, TN.
Landholding Agency: COE
Property Number: 319010944
Status: Excess
Comment: 29.67 acres; subject to existing easements.

Tracts 6005 and 6017
Barkley Lake
Dover Co: Stewart, TN 37058–
Location: 3 miles south of Village of Tobaccoport.

Landholding Agency: COE
Property Number: 319011173
Status: Excess
Comment: 5 acres; subject to existing easements.

Tracts K–1191, K–1135
Old Hickory Lock and Dam
Hartsville Co: Trousdale, TN 37074–
Landholding Agency: COE
Property Number: 319130007
Status: Underutilized
Comment: 92 acres (38 acres in floodway), most recent use—recreation

Tract A–102
Dale Hollow Lake & Dam Project
Canoe Ridge, State Hwy 52
Celina Co: Clay, TN 38551–
Landholding Agency: COE
Property Number: 319140006
Status: Underutilized
Comment: 351 acres, most recent use—hunting, subject to existing easements

Tract A–120
Dale Hollow Lake & Dam Project
Swann Ridge, State Hwy No. 53
Celina Co: Clay, TN 38551–
Landholding Agency: COE
Property Number: 319140007
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements.

Tracts A–20, A–21
Dale Hollow Lake & Dam Project
Red Oak Ridge, State Hwy No. 53
Celina Co: Clay, TN 38551–
Landholding Agency: COE
Property Number: 319140008
Status: Underutilized
Comment: 821 acres, most recent use—recreation, subject to existing easements

Tract D–185
Dale Hollow Lake & Dam Project
Ashburn Creek, Hwy No. 53
Livingston Co: Clay, TN 38570–
Landholding Agency: COE
Property Number: 319140010
Status: Underutilized
Comment: 883 acres, most recent use—hunting, subject to existing easements.

Texas

Parcel #222
Lake Texoma
(See County) Co: Grayson, TX
Location: C. Meyerheim survey A–829 J. Hamilton survey A–529
Landholding Agency: COE
Property Number: 319010421
Status: Excess
Comment: 52.80 acres; most recent use—recreation.

Parts of Tracts
B–143, B–144, B–146, B–148, B–179
Downstream of Lewisville Dam embankment
Louisville Co: Denton, TX 75067–
Location: Along State Hwy 121
Landholding Agency: COE
Property Number: 319140015
Status: Underutilized
Comment: Approx. 92.81 acres in 3 parcels, most recent use—wildlife and low density recreation.

Peary Point #2
Naval Air Station
Corpus Christi Co: Nueces, TX 78419–5000
Landholding Agency: Navy
Property Number: 779030001
Status: Excess
Comment: 43.48 acres; 60% of land under lease until 8/93.
GSA Number: 7–N–TX–402–V.

Suitable/Unavailable Properties

Buildings (by State)

Florida

Bldg. CN7, CN8
Ortona Lock Reservation, Okeechobee Waterway
Ortona Co: Glades, FL 33471–
Location: Located off Highway 78 approximately 7 miles west of intersection with Highway 27.
Landholding Agency: COE
Property Number: 319010012–319010013
Status: Unutilized
Comment: 1468 sq. ft.; one floor wood frame; most recent use—residence; secured with alternate access.

Bldg. CN–19
Moore Haven Lock
Okeechobee Waterway
Moore Haven Co: Glades, FL 33471–
Location: 1 mile east of highway 27
Landholding Agency: COE
Property Number: 319011688
Status: Unutilized
Comment: 1281 sq. ft.; 1 story frame residence; secured area with alternate access.

Georgia

Lot 3
Lake Forrest Subdivision
Woodframe House
Hartwell Co: Hartwell, GA
Landholding Agency: COE
Property Number: 319110026
Status: Excess
Comment: 896 sq. ft.; 2 story wood frame residence; off-site removal only.

Illinois

Bldgs. 1–7
Ohio River Locks & Dam No. 53
Grand Chain Co: Pulaski, IL 62941–9801
Location: Ohio River Locks and Dam No. 53 at Grand Chain.
Landholding Agency: COE
Property Number: 319010001–319010007
Status: Unutilized
Comment: 900 sq. ft.; 1 floor wood frame; most recent use—residence.

Indiana

Cagles Mill Lake
Cagles Mill Lake Dam
Poland Co: Putnam, IN 47868–
Location: Midway between Indianapolis and Terre Haute, 5 miles west of Poland on SR42.
Landholding Agency: COE
Property Number: 319011046
Status: Unutilized
Comment: 1066 sq. ft.; wood frame residence; minor rehab.
Dwelling #2
Cagle Mill Lake
Poland Co: Putnam, IN 47868–
Location: 5 miles west of Polano on SR 42
Landholding Agency: COE
Property Number: 319011686
Status: Unutilized
Comment: 872 sq. ft.; 1 story wood frame residence; fair condition.

Kentucky

Kentucky River Lock and Dam 3
Pleasureville Co: Henry, KY 40057–
Location: SR 421 North from Frankfort, KY. to highway 561, right on 561 approximately 3 miles to site.
Landholding Agency: COE
Property Number: 319010060
Status: Unutilized
Comment: 897 sq. ft.; 2 story wood frame; structural deficiencies.

Kentucky River Lock and Dam 3
Pleasureville Co: Henry, KY 40057–
Location: SR 421 north from Frankfort, KY. to highway 561, right on 561 approximately 3 miles to site.
Landholding Agency: COE
Property Number: 319010061
Status: Unutilized
Comment: 1060 sq. ft.; 2 story wood frame; needs rehab.

Bldgs. 1–2
Kentucky River Lock and Dam
Carrolton Co: Carroll, KY 41008–
Location: Take I–71 to Carrolton, KY exit, go east on SR #227 to Highway 320, then left for about 1.5 miles to site.
Landholding Agency: COE
Property Number: 319011628–319011629
Status: Unutilized
Comment: 1530 sq. ft.; 2 story wood frame house; subject to periodic flooding; needs rehab.

Minnesota

Former Yardmaster's Dwelling
Duluth Vessel Yard
900 Minnesota Avenue
Duluth Co: St. Louis, MN 55802–
Landholding Agency: COE
Property Number: 319011042
Status: Unutilized
Comment: 1568 sq. ft.; 2 story wood frame residence; potential utilities; minor rehab.

New Mexico

Bldg. 1E
Conchas Lake Project Office
Co: San Miguel, NM 88416–
Landholding Agency: COE
Property Number: 319011538
Status: Underutilized
Comment: 1000 sq. ft.; 1 story adobe residence.

New York

Naval Reserve Center
112 Hanse Avenue
Freeport Co: Nassau, NY 11550–
Landholding Agency: Navy
Property Number: 779010041
Status: Excess
Comment: 40,000 sq. ft.; 1 floor; most recent use—offices; needs rehab.

Pennsylvania

Conemaugh River Lake
Road #1, Box 702
Saltsburg Co: Indiana, PA 15681–
Landholding Agency: COE

Property Number: 319010019
Status: Unutilized
Comment: 2642 sq. ft.; one unit of brick/frame duplex; most recent use—residence.

Bldg.—Cowanesque Lake
Tioga Co: Tioga, PA 16946–
Location: Located on north side of Bliss Road across from Cowansesque Dam Office
Landholding Agency: COE
Property Number: 319120003
Status: Excess
Comment: 2640 sq. ft., 1 story wood frame, most recent use—storage, off-site removal only.

Tennessee

Transient Quarters
Dale Hollow Lake and Dam Project
Dale Hollow Resource Mgr Office, Rt 1, Box 64
Celina Co: Clay, TN 38551–
Landholding Agency: COE
Property Number: 319140005
Status: Unutilized
Comment: 1400 sq. ft., concrete block, possible security restrictions, subject to existing easements.

Texas

Bldg. 6–B
Blazos River Floodgates
Freeport Co.: Brazoria, TX 77541–
Location: 5 miles south of Freeport.
Landholding Agency: COE
Property Number: 319110030
Status: Unutilized
Comment: 1100 sq. ft.; 2 story wood frame; needs major rehab; possible asbestos; off-site use only.

Bldg. 6–C
Colorado River Locks
109 Colorado River Locks
Matagorda Co.: Matagorda, TX 77547–
Landholding Agency: COE
Property Number: 319110031
Status: Unutilized
Comment: 1100 sq. ft.; 1 story wood frame; needs rehab; off-site use only.

66 Bldgs.
Laguna Housing Area
NAS Corpus Christi
Corpus Christi Co: Nueces, TX 78419–
Landholding Agency: Navy
Property Number: 779010161–779010227
Status: Underutilized
Comment: 1730 sq. ft.; 1 story residence.

Virginia

Tract HH 3331–E
John H. Kerr Reservoir
Woodframe House
South Boston Co: Halifax, VA
Landholding Agency: COE
Property Number: 319110027
Status: Excess
Comment: 1040 sq. ft.; 1 story wood frame residence; off-site removal only.

Naval Medical Clinic
6500 Hampton Blvd.
Norfolk Co: Norfolk, VA 23508–
Landholding Agency: Navy
Property Number: 779010109
Status: Unutilized
Comment: 3665 sq. ft., 1 story, possible asbestos, most recent use—laundry.

Washington

Naval Station Puget Sound
7500 San Point Way, NE
Seattle Co: King, WA 98115–
Landholding Agency: Navy
Property Number: 779120002
Status: Excess
Base closure Number of Units: 1
Comment: 144 sq. ft. ammunition bunker, most recent use-storage, secured area with alternate access.

West Virginia

Naval & Marine Corps Res. Ctr.
N. 13th St. & Ohio River
Wheeling Co.: Ohio, WV 26003–
Landholding Agency: Navy
Property Number: 779010077
Status: Excess
Comment: 32000 sq. ft.; 1 floor; most recent use—offices; 15 percent of total space occupied; needs rehab; land leased from city—expires September 1990.

Wisconsin

Former Lockmaster's Dwelling
DePere Lock
100 James Street
De Pere Co: Brown, WI 54115–
Landholding Agency: COE
Property Number: 319011526
Status: Unutilized
Comment: 1224 sq. ft.; 2 story brick/wood frame residence; needs rehab; secured area with alternate access.

Land (by State)

Florida

Naval Public Works Center
Naval Air Station
Pensacola Co: Escambia, FL 32508–
Location: Southeast corner of Corey station—next to family housing.
Landholding Agency: Navy
Property Number: 779010157
Status: Unutilized
Comment: 22 acres.

Georgia

E. O. Tract A
J. Strom Thurmond Dam and Reservoir Co: Columbia, GA
Location: 3 miles east of GA 104 and Ridge Road intersection.
Landholding Agency: COE
Property Number: 319011516
Status: Unutilized
Comment: 17 acres; potential utilities; most recent use—forest and wildlife reserve.

E.O. Tract B
J. Strom Thurmond Dam and Reservoir
Co: Columbia, GA
Location: 3 miles east of Ga 104 and Ridge Road intersection.
Landholding Agency: COE
Property Number: 319011517
Status: Unutilized
Comment: 88 acres; potential utilities; most recent use—forest and wildlife reserve.

E. O. Tract F
J. Strom Thurmond Dam and Reservoir
Co: Columbia, GA
Location: Approximately 2 miles east of GA 104 and Keg Creek Road intersection.
Landholding Agency: COE
Property Number: 319011519
Status: Unutilized
Comment: 29 acres; potential utilities; most recent use—forest and wildlife reserve.

E. O. Tract E
J. Strom Thurmond Dam and Reservoir
Co.: Columbia, GA
Location: Approximately 1½ miles east of GA 104 and Keg Creek Road Intersection.
Landholding Agency: COE
Property Number: 319011520
Status: Unutilized
Comment: 12 acres; potential utilities; most recent use—forest reserve and wildlife management.

E. O. Tracts G, I
J. Strom Thurmond Dam and Reservoir
CO: Columbia, GA
Location: 4 miles east of GA 104 and Ridge Road Intersection.
Landholding Agency: COE
Property Number: 319011521, 319011523
Status: Unutilized
Comment: 8 acres each; potential utilities; most recent use—forest and wildlife reserve.

Naval Submarine Base
Grid AA–1 to AA–4 to EE–7 to FF–2
Kings Bay Co: Camden, GA 31547–
Landholding Agency: Navy
Property Number: 779010255
Status: Underutilized
Comment: 495 acres; 86 acre portion located in floodway; secured area with alternate access.

Kansas

Paradise Point
Public Use Area (Perry Lake)
Perry Co: Jefferson, KS 66073–
Location: Upper-east reaches of the Perry Lake project, approximately 8½ miles west of Oskaloosa, 8½ miles southeast of Valley Falls.
Landholding Agency: COE
Property Number: 319011540
Status: Underutilized
Comment: 479 acres; portion in floodway/reservoir flood control area; remote location.

Grasshopper Point
Public Use Area (Perry Lake)
Perry Co: Jefferson, KS 66073–
Location: Along the west shore of Perry Lake, 5 miles east (gravel road) from Meridan, 5 miles south from Ozawkie.
Landholding Agency: COE
Property Number: 319011541
Status: Underutilized
Comment: 174 acres; portion in floodway/reservoir flood control area; remote location.

Sunset Ridge
Public Use Area (Perry Lake)
Perry Co: Jefferson, KS 66073–
Location: Upper-west reaches of the Perry Lake project, approximately 8 miles south from Valley Falls.
Landholding Agency: COE
Property Number: 319011542
Status: Underutilized
Comment: 279 acres; portion in floodway/reservoir flood control area; remote location.

Dragoon Access Area
Pomona Lake
Vassar Co: Osage, KS 66543–
Location: Upper reaches of north shore of the Pomona Lake, approximately 10.5 miles north and east of Lundon.
Landholding Agency: COE
Property Number: 319011543
Status: Underutilized
Comment: 110 acres; portion in floodway/reservoir flood control area.

Oklahoma

45 acre parcel, Sardis Lake
SE¼ NE¼ Section 4, T 2 N, R 18 E Co: Pushmataha, OK 74521–
Landholding Agency: COE
Property Number: 319140004
Status: Excess
Comment: Approx. 45 acres, most recent use—fish and wildlife conservation.

Pennsylvania

East Branch Clarion River Lake
Wilcox Co: Elk, PA
Location: Free camping area on the right bank off entrance roadway.
Landholding Agency: COE
Property Number: 319011012
Status: Underutilized
Comment: 1 acre; most recent use—free campground.

South Carolina

E. O. Tract J
J. Strom Thurmond Dam and Reservoir
Co: McCormick, SC
Location: 4 miles southwest of Plum Branch SC on road to Clarks Mill Marina.
Landholding Agency: COE
Property Number: 319011514
Status: Unutilized
Comment: 57 acres; potential utilities; most recent use—forest and wildlife reserve.

E. O. Tract C
J. Strom Thurmond Dam and Reservoir
Co: McCormick, SC
Location: Approximately 1 mile north of US 221 and SC 28 intersection.
Landholding Agency: COE
Property Number: 319011515
Status: Unutilized
Comment: 70 acres; potential utilities; most recent use—forest and wildlife reserve.

Texas

Part of Tract A–10
Co: Tarrant, TX
Location: Off FM 2499 at north end of dam embankment
Landholding Agency: COE
Property Number: 319010390
Status: Excess
Comment: 0.29 acres; most recent use—parking lot.

Part of Tract 340
Joe Pool Lake
Co: Dallas, TX
Landholding Agency: COE
Property Number: 319010400
Status: Unutilized
Comment: 1 acre; future use—recreation.

Virginia

Naval Base
Norfolk Co: Norfolk, VA 23508–
Location: Northeast corner of base, near Willoughby housing area.
Landholding Agency: Navy
Property Number: 779010156
Status: Unutilized
Comment: 60 acres; most recent use—sandpit; secured area with alternate access.

Suitable/To Be Excessed

Buildings (by State)

California

Bldg. 100
Naval Facilities Point Sur
CVB Detachment
Monterey Co: Monterey, CA 93940–
Landholding Agency: Navy
Property Number: 779010259
Status: Unutilized
Comment: 2628 sq. ft.; 1 story permanent bldg; possible asbestos; secure facility with alternate access; use—office space.

Bldg. 102
Naval Facilities Point Sur
CVB Detachment
Monterey Co: Monterey, CA 93940–
Landholding Agency: Navy
Property Number: 779010260
Status: Unutilized
Comment: 580 sq. ft.; 1 story permanent bldg; possible asbestos; secure facility with alternate access; most recent use—office.

Bldg. 103
Naval Facilities Point Sur
CVB Detachment
Monterey Co: Monterey, CA 93940–
Landholding Agency: Navy
Property Number: 779010261
Status: Unutilized
Comment: 3675 sq. ft.; 1 story permanent bldg; possible asbestos; secure facility with alternate access; most recent use—dining hall.

Bldg. 109
Naval Facilities Point Sur
CVB Detachment
Monterey Co: Monterey, CA 93940–
Landholding Agency: Navy
Property Number: 779010262
Status: Unutilized
Comment: 1045 sq. ft.; 2 story permanent bldg; possible asbestos; secure facility with alternate access; most recent use—barracks.

Bldg. 110
Naval Facilities Point Sur
CVB Detachment
Monterey Co: Monterey, CA 93940–
Landholding Agency: Navy
Property Number: 779010263
Status: Unutilized
Comment: 4439 sq. ft.; 1 story permanent bldg; possible asbestos; secure facility with alternate access; most recent use—shop.

Bldg. 113
Naval Facilities Point Sur
CVB Detachment
Monterey Co: Monterey, CA 93940–
Landholding Agency: Navy
Property Number: 779010264
Status: Unutilized
Comment: 100 sq. ft.; 1 story permanent bldg; secured facilities with alternate access; most recent use—storage.

Bldg. 138
Naval Facilities Point Sur
CVB Detachment
Monterey Co: Monterey, CA 93940–
Landholding Agency: Navy
Property Number: 779010265
Status: Unutilized
Comment: 110 sq. ft.; 1 story permanent bldg; possible asbestos; secure facility with alternate access; most recent use—filling station.

Bldg. 144
Naval Facilities Point Sur
CVB Detachment
Monterey Co: Monterey, CA 93940–
Landholding Agency: Navy
Property Number: 779010266
Status: Unutilized
Comment: 4320 sq. ft.; 1 story semi-permanent bldg; possible asbestos; secure facility with alternate access; most recent use—bowling alley.

Bldg. 145
Naval Facilities Point Sur
CVB Detachment
Monterey Co: Monterey, CA 93940–
Landholding Agency: Navy
Property Number: 779010267
Status: Unutilized
Comment: 4000 sq. ft.; 1 story semi-permanent bldg; possible asbestos; secure facility with alternate access; most recent use—recreation building

Kentucky

Bldg.—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin, KY 41095–
Landholding Agency: COE
Property Number: 319130004
Status: Unutilized
Comment: 64 sq. ft.; 1 story wood frame, most recent use—utility off-site use only.

Michigan

Former C. G. Lightkeeper Sta.
Little Rapids Channel Project
St. Marys River
Sault Ste. Marie Co: Chippewa, MI 49783–
Location: 3 miles east of downtown Sault Ste. Marie.
Landholding Agency: COE
Property Number: 319011573
Status: Excess
Comment: 1411 sq. ft.; 2 story; wood frame on .62 acres; needs rehab; secured area with alternate access.

Land (by State)

Illinois

Libertyville Training Site
Libertyville Co: Luke, IL 60048–
Landholding Agency: Navy
Property Number: 779010073
Status: Excess
Comment: 114 acres; possible radiation hazard; existing FAA use license.

Indiana

Cecil M. Harden Lake Project
Rockville Co: Parke, IN 47872–
Location: Route 57 at intersection w/country road 910E.
Landholding Agency: COE
Property Number: 319011689

Status: Excess
Comment: 2.68 acres; narrow triangular shaped area of land.

Tracts 903, 905, 905–C
Patoka Lake Project
Taswell Co: Crawford, IN 47527–
Location: From French Lick, IN, take SR 145S for 10 miles to intersection with SR 164, property lies east and adjacent to highway 145.
Landholding Agency: COE
Property Number: 319030003
Status: Excess
Comment: 22.35 acres; limited utilities.

Tracts 142–A, 143
Patoka Lake Project
Dubois Co: Dubois, IN 47527–9661
Location: From French Lick, IN take SR 145 S. for 20 miles to SR 164, go west on 164 for 7 miles to Celestine Road, go North on Celestine for 5 miles to Dubois Co. Road 475, then right for ¼ mile to property.
Landholding Agency: COE
Property Number: 319030004
Status: Excess
Comment: 21.30 acres; limited utilities; subject to periodic flooding.

Tract 142–B
Patoka Lake Project
Dubois Co: Dubois, IN 47527–9661
Location: From French Lick, IN take SR 145 S for 20 miles to SR 164, go west on 164 for 7 miles to Celestine Road, go North on Celestine for 5 miles to Dubois Co. Road 475, then right for ¼ mile to property.
Landholding Agency: COE
Property Number: 319030005
Status: Excess
Comment: 4.74 acres; limited utilities; subject to periodic flooding.

Tract 601
Patoka Lake Project
French Lick Co: Orange, IN 47527–
Location: IN. State Highway 145 south to Jordan Branch Road, Property abuts east right-of-way for Jordan Road.
Landholding Agency: COE
Property Number: 319030006
Status: Excess
Comment: 0.41 acre; limited utilities.

Kansas

Parcel #1
Fall River Lake
Section 26
Co: Greenwood, KS
Landholding Agency: COE
Property Number: 319010065
Status: Unutilized
Comment: 155 acres; most recent use—recreation and leased cottage sites.

Parcel #2
Fall River Lake
Sections 25 and 26
Co: Greenwood, KS
Landholding Agency: COE
Property Number: 319010066
Status: Excess
Comment: 38.62 acres; most recent use—recreation.

Parcel #3
Fall River Lake
Section 26
Co: Greenwood, KS
Landholding Agency: COE
Property Number: 319010067
Status: Excess
Comment: 22.44 acres; most recent use—recreation.

Kentucky

Tract B—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin, KY 41095–
Landholding Agency: COE
Property Number: 319130002
Status: Unutilized
Comment: 10 acres, most recent use—recreational, possible periodic flooding.

Tract A—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin, KY 41095–
Landholding Agency: COE
Property Number: 319130003
Status: Unutilized
Comment: 8 acres, most recent use—recreational, possible periodic flooding.

Tract C—Markland Locks & Dam
Hwy 42, 3.5 miles downstream of Warsaw
Warsaw Co: Gallatin, KY 41095–
Landholding Agency: COE
Property Number: 319130005
Status: Unutilized
Comment: 4 acres, most recent use—recreational, possible periodic flooding.

Massachusetts

Buffumville Dam
Flood Control Project
Gale Road
Carlton Co: Worcester, MA 01540–0155
Location: Portion of tracts B–200, B–248, B–251, B–204, B–247, B–200, and B–256
Landholding Agency: COE
Property Number: 319010016
Status: Excess
Comment: 1.45 acres.

Conant Brook Dam
Flood Control Dam
Wales Road
Monson Co: Hampden, MA 01057–
Location: Portion of Tract 211
Landholding Agency: COE
Property Number: 319010017
Status: Excess
Comment: 5.27 acres.

Hodges Village
Dam Flood Control Project
Old Howarth Road
Oxford Co: Worcester, MA 01540–0500
Location: Portion of Tract A–108, See Project Manager at Hodges Village Dam, Oxford, MA (508) 987–2600.
Landholding Agency: COE
Property Number: 319011006
Status: Excess
Comment: 6.02 acres; 3 acres paved road, subject to utility easement.

Oklahoma

Parcel No. 18
Fort Gibson Lake
Section 12
Wagoner Co., Co: Wagoner, OK
Landholding Agency: COE
Property Number: 219013808
Status: Underutilized
Comment: 8.77 acres, subject to grazing lease; most recent use—recreation.

Parcel No. 100
Lake Texoma
Section 25, T7S, R5E
Enos Co: Marshall, OK
Location: 1 mile northeast of Enos
Landholding Agency: COE
Property Number: 319010440
Status: Underutilized
Comment: 11.77 acres, most recent use—recreation.

Parcel No. 7
Kaw Lake
Section 27
Co: Kay, OK
Landholding Agency: COE
Property Number: 319010842
Status: Excess
Comment: 21 acres; potential utilities; most recent use—recreation.

Parcel No. 3
Sardis Lake
Section 21
Co: Latimer, OK
Landholding Agency: COE
Property Number: 319010843
Status: Excess
Comment: 2.5 acres; potential utilities; most recent use—wildlife management.

Parcel No. 4
Sardis Lake
Section 21
Co: Latimer, OK
Landholding Agency: COE
Property Number: 319010844
Status: Excess
Comment: 4.5 acres, potential utilities; most recent use—wildlife management.

Parcel No. 7
Fort Gibson Lake
Section 6
Co: Cherokee, OK 74434
Landholding Agency: COE
Property Number: 319010869
Status: Unutilized
Comment: 16.31 acres; potential utilities; most recent use—recreational and development.

Parcel No. 14
Fort Gibson Lake
Section 20
Co: Cherokee, OK 74434
Landholding Agency: COE
Property Number: 319010870
Status: Unutilized
Comment: 52.09 acres, potential utilities; subject to haying/grazing leases; most recent use—recreational.

Parcel No. 15
Fort Gibson Lake
Section 22
Co: Cherokee, OK 74434
Landholding Agency: COE
Property Number: 319010871
Status: Unutilized
Comment: 7.51 acres; potential utilities; most recent use—recreational.

Parcel No. 28
Fort Gibson Lake
Section 35
Co: Mayes, OK 74434
Landholding Agency: COE
Property Number: 319010877
Status: Unutilized
Comment: 36.59 acres; potential utilities; and intensive; most recent use—recreational.

Parcel No. 75

Fort Gibson Lake
Section 16
Co: Mayes, OK 74434
Landholding Agency: COE
Property Number: 319010887
Status: Excess
Comment: 45 acres; potential utilities; subject to haying lease and flowage easement; most recent use—recreational.

Parcel No. 88
Fort Gibson Lake
Section 7
Co: Wagoner, OK 74434
Landholding Agency: COE
Property Number: 319010899
Status: Unutilized
Comment: 14 acres; potential utilities; subject to grazing lease; most recent use—recreational.

Parcel No. 89
Fort Gibson Lake
Section 7
Co: Wagoner, OK 74434
Landholding Agency: COE
Property Number: 319010900
Status: Excess
Comment: 16 acres; potential utilities; subject to grazing lease and flowage easement; most recent use—recreational.

Parcel No. 95
Fort Gibson Lake
Section 33
Co: Wagoner, OK 74434
Landholding Agency: COE
Property Number: 319010906
Status: Unutilized
Comment: 8 acres; potential utilities; most recent use—recreational.

Parcel No. 43
Fort Gibson Lake
Section 11
Co: Mayes, OK 74434
Landholding Agency: COE
Property Number: 319011371
Status: Underutilized
Comment: 125 acres, potential utilities; portion subject to grazing lease and flowage easements.

Parcel No. 49
Fort Gibson Lake
Section 15
Co: Mayes, OK 74434
Landholding Agency: COE
Property Number: 319011377
Status: Excess
Comment: 26.94 acres; potential utilities; portion subject to grazing lease and flowage easements.

Parcel No. 61
Fort Gibson Lake
Section 13
Co: Mayes, OK 74434
Landholding Agency: COE
Property Number: 319011389
Status: Excess
Comment: 54 acres, potential utilities; subject to flowage easements; most recent use—recreation.

Parcel No. 99
Fort Gibson Lake
Section 21
Co: Wagoner, OK 74434
Landholding Agency: COE
Property Number: 319011400
Status: Excess
Comment: 5 acres, small creek on land; most recent use—recreation.

Parcel No. 102
Fort Gibson Lake
Section 33
Co: Wagoner, OK 74434
Landholding Agency: COE
Property Number: 319011403
Status: Excess
Comment: 7 acres, subject to grazing lease; most recent use—recreation.

Parcel No. 105
Fort Gibson Lake
Section 14, 22 and 23
Co: Wagoner, OK 74434
Landholding Agency: COE
Property Number: 319011406
Status: Underutilized
Comment: 375 acres, portion is environmentally protected; most recent use—recreation.

Oregon

Tract 108 (Portion of)
Willow Creek Lake Project
Heppner Co: Morrow, OR 77836–
Location: Located up hill from the left abutment of the dam structure.
Landholding Agency: COE
Property Number: 319011687
Status: Unutilized
Comment: 2.25 acres; unimproved land; secured area with alternate access.

Pennsylvania

Tract B–202 (Portion of)
Stillwater Reservoir
Forest City Co: Susquehanna, PA 18421–
Location: On the Lackawanna River, 4 miles north of Forest City.
Landholding Agency: COE
Property Number: 319010009
Status: Unutilized
Comment: 70 acres; property divided by a creek; access to majority of the land is difficult.
GSA Number: PA–P–0065

Tennessee

Tract D–456
Cheatham Lock and Dam
Ashland Co: Cheatham, TN 37015–
Location: Right downstream bank of Sycamore Creek.
Landholding Agency: COE
Property Number: 319010942
Status: Excess
Comment: 8.93 acres; subject to existing easements.

Texas

Tract J–957
Whitney Lake
Bosque Co: Bosque, TX
Location: Via Avenue B within the community of Kopperl.
Landholding Agency: COE
Property Number: 319110029
Status: Unutilized
Comment: .18 acres; potential utilities; encroachments on large portion of property.

Tract J–936
Whitney Lake
Bosque Co: Bosque, TX
Location: Off F. M. Highway 56 within the community of Kopperl.
Landholding Agency: COE
Property Number: 319110032
Status: Unutilized
Comment: 5.4 acres; potential utilities.

Tract F–516 O.C. Fisher Lake
Parallel with Grape Creek Road
San Angelo Co: Tom Green, TX 76902–3085
Landholding Agency: COE
Property Number: 319120002
Status: Unutilized
Comment: 2.13 acres, potential limited utilities.

Part of Tract 102 Segment 1
Bardwell Dam Road
Ennis Co: Ellis, TX 75119–
Landholding Agency: COE
Property Number: 319140014
Status: Unutilized
Comment: approx. 4.5 acres.

Unsuitable Properties

Buildings (by State)

Alaska

Baler Bldg., Map Grid 55N14
Naval Air Station
Adak Co: Adak, AK 98791–
Landholding Agency: Navy
Property Number: 79120003
Status: Unutilized
Reason: Secured Area.

Sand Shed, Map Grid 45024
Naval Air Station
Adak Co: Adak, AK 98791–
Landholding Agency: Navy
Property Number: 779120004
Status: Unutilized
Reason: Secured Area.

Pier #9, Map Grid 55Y1
Naval Air Station
Adak Co: Adak, AK 98791–
Landholding Agency: Navy
Property Number: 779120005
Status: Unutilized
Reason: Secured Area.

LORAN Station, Map Grid 09L11
Naval Air Station
Adak Co: Adak, AK 98791–
Landholding Agency: Navy
Property Number: 779120006
Status: Unutilized
Reason: Secured Area.

California

Bldgs. 105, 165
Naval FPS, CVB Detachment
Monterey Co: Monterey, CA 93940–
Landholding Agency: Navy
Property Number: 779010159–779010160
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material.

Bldg. 146
Naval Facilities Point Sur
CVB Detachment
Monterey Co: Monterey, CA 93940–
Landholding Agency: Navy
Property Number: 779010268
Status: Unutilized
Reason: Other
Comment: Sewer treatment facility.

Florida

East Martello Bunker #1
Naval Air Station
Key West Co: Monroe, FL 33040–
Landholding Agency: Navy
Property Number: 779010101
Status: Excess
Reason: Within airport runway clear zone.

Georgia

Naval Submarine Base—Kings Bay
1011 USS Daniel Boone Avenue
Kings Bay Co: Camden, GA 31547–
Landholding Agency: Navy
Property Number: 779010107
Status: Unutilized
Reason: Secured Area.

Illinois

Bldgs. 928, 28, 25
Naval Training Center
Great Lakes
Great Lakes Co: Lake, IL 60088–
Landholding Agency: Navy
Property Number: 779010120, 779010123, 779010126
Status: Unutilized
Reason: Secured Area.

South Wing—Building No. 62
Great Lakes Co: Lake, IL 60088–5000
Landholding Agency: Navy
Property Number 779110001
Status: Underutilized
Reason: Secured Area.

Kentucky

Spring House
Kentucky River Lock and Dam No. 1
Highway 320
Carrollton Co: Carroll, KY 41008–
Landholding Agency: COE
Property Number: 219040416
Status: Unutilized
Reason: Other
Comment: Spring House.

Building
Kentucky River Lock and Dam No. 4
1021 Kentucky Avenue
Frankfort Co: Franklin, KY 40601–9999
Landholding Agency: COE
Property Number: 219040417
Status: Unutilized
Reason: Other
Comment: Coal Storage.

Building
Kentucky River Lock and Dam No. 4
1021 Kentucky Avenue
Frankfort Co: Franklin, KY 40601–9999
Landholding Agency: COE
Property Number: 219040418
Status: Unutilized
Reason: Other
Comment: Coal Storage.

Barn
Kentucky River Lock and Dam No. 3
Highway 561
Pleasureville Co: Henry, KY 40057–
Landholding Agency: COE
Property Number: 219040419
Status: Underutilized
Reason: Other
Comment: 110 year old barn with crumbled foundation.

Tract 111—Building
Martins Fork Lake
Smith Co: Harlan, KY 40867–
Location: 13 miles southeast of Harlan on Highway 987
Landholding Agency: COE
Property Number: 319010062
Status: Unutilized
Reason: Floodway.

Latrine
Kentucky River Lock and Dam Number 3
Highway 561
Pleasureville Co: Henry, KY 40057–
Landholding Agency: COE
Property Number: 319040009
Status: Unutilized
Reason: Other
Comment: Detached Latrine.

6–Room Dwelling
Green River Lock and Dam No. 3
Rochester Co: Butler, KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120010
Status: Unutilized
Reason: Floodway.

2–Car Garage
Green River Lock and Dam No. 3
Rochester Co: Butler, KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120011
Status: Unutilized
Reason: Floodway.

Office and Warehouse
Green River Lock and Dam No. 3
Rochester Co: Butler, KY 42273–
Location: Off State Hwy 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120012
Status: Unutilized
Reason: Floodway.

2 Pit Toilets
Green River Lock and Dam No. 3
Rochester Co: Butler, KY 42273–
Landholding Agency: COE
Property Number: 319120013
Status: Unutilized
Reason: Floodway.

Missouri

Building—Stockton Lake Project
Old Mill Area
(See County) Co: Cedar, MO 65785–
Landholding Agency: COE
Property Number: 219040414
Status: Unutilized
Reason: Floodway.

New Mexico

Cochiti Lake Project Office
Pena Blanca Co: Sandoval, NM 87041–
Location: 30 miles from Santa Fe. 45 miles from Albuquerque.
Landholding Agency: COE
Property Number: 319011505
Status: Underutilized
Reason: Secured Area.

New York

Bldgs. 204, 255, T–370
Naval Underwater Systems Center
Fisher's Island Annex Detachment
Fisher's Island Co: Suffolk, NY 06390–
Landholding Agency: Navy
Property Number: 779010270–779010272
Status: Excess
Reason: Secured Area.

Pennsylvania

Bldg. 62
Philadelphia Naval Shipyard
Philadelphia Co: Philadelphia, PA 19112–
Landholding Agency: Navy
Property Number: 779010112
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

Rhode Island

91 Bldgs.
Naval Construction Battalion Center
Davisville Co: Washington, RI 02854–
Landholding Agency: Navy
Property Number: 779010001–779010023, 779010025, 779010027–779010040, 779010042–779010061, 779010063–779010065, 779010067, 779010069–779010072, 779010074, 779010076, 779010078–779010079, 779010232–779010240, 779010242–779010253
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 32
Naval Underwater Systems Center
Gould Island Annex
Middletown Co: Newport, RI 02840–
Landholding Agency: Navy
Property Number: 779010273
Status: Excess
Reason: Secured Area.

Bldg. A–63
Naval Construction Battalion Center
Davisville Co: Washington, RI 02854–
Landholding Agency: Navy
Property Number: 779010277
Status: Excess
Reason: Secured Area.

Tennessee

Bldg. 204
Cordell Hull Lake and Dam Project
Defeated Creek Recreation Area
Carthage Co: Smith, TN 37030–
Location: U.S. Highway 85
Landholding Agency: COE
Property Number: 319011499
Status: Unutilized
Reason: Floodway.

Tract 2618 (Portion)
Cordell Hull Lake and Dam Project
Roaring River Recreation Area
Gainesboro Co: Jackson, TN 38562–
Location: TN Highway 135
Landholding Agency: COE
Property Number: 319011503
Status: Underutilized
Reason: Floodway.

Water Treatment Plant
Dale Hollow Lake & Dam Project
Obey River Park, State Hwy 42
Livingston Co: Clay, TN 38351–
Landholding Agency: COE
Property Number: 319140011
Status: Excess
Reason: Other Comment: Water treatment plant.

Water Treatment Plant
Dale Hollow Lake & Dam Project

Lillydale Recreation Area, State Hwy 53
Livingston Co: Clay, TN 38351–
Landholding Agency: COE
Property Number: 319140012
Status: Excess
Reason: Other Comment: Water treatment plant.

Water Treatment Plant
Dale Hollow Lake & Dam Project
Willow Grove Recreational Area, Hwy No. 53
Livingston Co: Clay, TN 38351–
Landholding Agency: COE
Property Number: 319140013
Status: Excess
Reason: Other Comment: Water treatment plant.

Texas

5 Bldgs.
Fort Point
Galveston Harbor and Channel Project
Galveston Co: Galveston, TX 77550–
Landholding Agency: COE
Property Number: 319110033–319110037
Status: Unutilized
Reason: Secured Area.

20 Bldgs.
Laguna Shores Housing Area
Corpus Christi Co: Nueces, TX 78419–
Landholding Agency: Navy
Property Number: 779010279–779010298
Status: Underutilized
Reason: Floodway.

Washington

Bldg. 57
Naval Supply Center, Puget Sound
Manchester Co: Kitsap, WA 98353–
Landholding Agency: Navy
Property Number: 779010091
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area.

Bldg. 47 (Report 1)
Naval Supply Center, Puget Sound
Manchester Co: Kitsap, WA 98353–
Landholding Agency: Navy
Property Number: 779010230
Status: Unutilized
Reason: Secured Area.

Land (by State)

California

Salton Sea Test Range
ElCentro Co: Imperial, CA 93555–
Landholding Agency: Navy
Property Number: 779010068
Status: Excess
Reason: Secured Area.

Florida

Boca Chica Field
Naval Air Station
Key West Co: Monroe, FL 23040–
Landholding Agency: Navy
Property Number: 779010097
Status: Unutilized
Reason: Floodway.

East Martello Battery #2
Naval Air Station
Key West Co: Monroe, FL 33040–
Landholding Agency: Navy
Property Number: 779010275
Status: Excess
Reason: Within airport runway clear zone.

Georgia

Naval Submarine Base
Grid G–5 to G–10 to Q–6 to P–2
Kings Bay Co: Camden, GA 31547–
Landholding Agency: Navy
Property Number: 779010228
Status: Underutilized
Reason: Secured Area.

Kentucky

Tract 4626
Barkley Lake, Kentucky and Tennessee
Donaldson Creek Launching Area
Cadiz Co: Trigg, KY 42211–
Location: 14 miles from US Highway 68.
Landholding Agency: COE
Property Number: 319010030
Status: Underutilized
Reason: Floodway.

Tract AA–2747
Wolf Creek Dam and Lake Cumberland
US HWY. 27 to Blue John Road
Burnside Co: Pulaski, KY 42519–
Landholding Agency: COE
Property Number: 319010038
Status: Underutilized
Reason: Floodway.

Tract AA–2726
Wolf Creek Dam and Lake Cumberland
KY HWY. 80 to Route 769
Burnside Co: Pulaski, KY 42519–
Landholding Agency: COE
Property Number: 319010039
Status: Underutilized
Reason: Floodway.

Tract 1358
Barkley Lake, Kentucky and Tennessee
Eddyville Recreation Area
Eddyville Co: Lyon, KY 42038–
Location: US Highway 62 to state highway 93.
Landholding Agency: COE
Property Number: 319010043
Status: Excess
Reason: Floodway.

Red River Lake Project
Stanton Co: Powell, KY 40380–
Location: Exit Mr. Parkway at the Stanton and Slade Interchange, then take SR Hand 15 north to SR 613.
Landholding Agency: COE
Property Number: 319011684
Status: Unutilized
Reason: Floodway.

Barren River Lock & Dam No. 1
Richardsville Co: Warren, KY 42270–
Landholding Agency: COE
Property Number: 319120008
Status: Unutilized
Reason: Floodway.

Green River Lock & Dam No. 3
Rochester Co: Butler, KY 42273–
Location: Off State Hwy. 369, which runs off of Western Ky. Parkway
Landholding Agency: COE
Property Number: 319120009
Status: Unutilized
Reason: Floodway.

Green River Lock & Dam No. 4
Woodbury Co: Butler, KY 42288–
Location: Off State Hwy 403, which is off State Hwy 231
Landholding Agency: COE
Property Number: 319120014
Status: Underutilized
Reason: Floodway.

Green River Lock & Dam No. 5
Readville Co: Butler, KY 42275–
Location: Off State Highway 185
Landholding Agency: COE
Property Number: 319120015
Status: Unutilized
Reason: Floodway.

Green River Lock & Dam No. 6
Brownsville Co: Edmonson, KY 42210–
Location: Off State Highway 259.
Landholding Agency: COE
Property Number: 319120016
Status: Underutilized
Reason: Floodway.

Vacant land west of locksite
Greenup Locks and Dam
5121 New Dam Road
Rural Co: Greenup, KY 41144–
Landholding Agency: COE
Property Number: 319120017
Status: Unutilized
Reason: Floodway.

Minnesota

Parcel G
Pine River
Cross Lake Co: Crow Wing, MN 56442–
Location: 3 miles from city of Cross Lake between highways 6 and 371.
Landholding Agency: COE
Property Number: 319011037
Status: Excess
Reason: Other
Comment: Highway right of way.

Mississippi

Parcel 1
Grenada Lake
Section 20
Grenada Co: Grenada, MS 38901–0903
Landholding Agency: COE
Property Number: 319011018
Status: Underutilized
Reason: Within airport runway clear zone.

Missouri

Stockton Public Use Area
Stockton Lake
Stockton Co: Cedar, MO 65785–0632
Location: Adjacent to and east of Stockton, MO.
Landholding Agency: COE
Property Number: 319011471
Status: Underutilized
Reason: Floodway.

Smith's Fork Park
Smithville Lake
Smithville Co: Clay, MO 64089–
Location: Within Smithville Lake water resource project downstream from dam, adjoins Smithville.
Landholding Agency: COE
Property Number: 319011473
Status: Underutilized
Reason: Floodway.

Old Mill Area
Stockton Lake
Stockton Co: Cedar, MO 65785–0632
Location: Below Stockton Lake Dam on right bank of Outlet Channel/SAC River. Approximately 2 miles from Stockton.
Landholding Agency: COE
Property Number: 319011477
Status: Underutilized

Reason: Floodway.

Ditch 19, Item 2, Tract No. 230
St. Francis Basin Project
2½ miles west of Malden Co: Dunklin, MO
Landholding Agency: COE
Property Number: 319130001
Status: Unutilized
Reason: Floodway.

North Carolina

Land
Atlantic Intracoastal Waterway
Co: Corrituck, NC
Location: Near old Coinjack Bridge.
Landholding Agency: COE
Property Number: 319011537
Status: Unutilized
Reason: Floodway.

Ohio

Ohio River
New Cumberland Lock and Dam
Glasgow Co: Beaver, OH
Landholding Agency: COE
Property Number: 319011560
Status: Unutilized
Reason: Floodway.

Ohio River
Pike Island Lock and Dam
RD #1, Box 33
Tiltonville Co: Jefferson, OH
Landholding Agency: COE
Property Number: 319011561
Status: Underutilized
Reason: Floodway.

Pennsylvania

Land
Raystown Lake
Huntingdon Co: Huntingdon, PA
Location: Downstream of Raystown Lake.
Landholding Agency: COE
Property Number: 219040420
Status: Excess
Reason: Other
Comment: Property Landlocked.

Lock and Dam #7
Monongahela River
Greensboro Co: Greene, PA
Location: Left hand side of entrance roadway to project.
Landholding Agency: COE
Property Number: 319011564
Status: Unutilized
Reason: Floodway.

Tennessee

McClure Bend
Cordell Hull Dam and Reservoir
Carthage Co: Smith, TN 37030–
Location: Highway 85 to McClure Bend Road.
Landholding Agency: COE
Property Number: 219040412
Status: Underutilized
Reason: Floodway.

Brooks Bend
Cordell Hull Dam and Reservoir
Highway 85 to Brooks Bend Road
Gainesboro Co: Jackson, TN 38562–
Location: Tracts 800, 802–806, 835–837, 900–902, 1000–1003, 1025
Landholding Agency: COE
Property Number: 219040413
Status: Underutilized
Reason: Floodway.

Cheatham Lock and Dam
Highway 12
Ashland City Co: Cheatham, TN 37015–
Location: Tracts E–513, E–512–1 and E–512–2
Landholding Agency: COE
Property Number: 219040415
Status: Underutilized
Reason: Floodway.

Tract 6737
Blue Creek Recreation Area
Barkley Lake, Kentucky and Tennessee
Dover Co: Stewart, TN 37058–
Location: U.S. Highway 79/TN Highway 761
Landholding Agency: COE
Property Number: 319011478
Status: Underutilized
Reason: Floodway.

Tracts 3102, 3105, and 3106
Brimstone Launching Area
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson, TN 38562–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 319011479
Status: Excess
Reason: Floodway.

Tract 3507
Proctor Site
Cordell Hull Lake and Dam Project
Celina Co: Clay, TN 38551–
Location: TN Highway 52
Landholding Agency: COE
Property Number: 319011480
Status: Unutilized
Reason: Floodway.

Tract 3721
Obey
Cordell Hull Lake and Dam Project
Celina Co: Clay, TN 38551–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 319011481
Status: Unutilized
Reason: Floodway.

Tracts 608, 609, 611 and 612
Sullivan Bend Launching Area
Cordell Hull Lake and Dam Project
Carthage Co: Smith, TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011482
Status: Underutilized
Reason: Floodway.

Tract 920
Indian Creek Camping Area
Cordell Hull Lake and Dam Project
Granville Co: Smith, TN 38564–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 319011483
Status: Underutilized
Reason: Floodway.

Tracts 1710, 1716 and 1703
Flynns Lick Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson, TN 38562–
Location: Whites Bend Road
Landholding Agency: COE
Property Number: 319011484
Status: Underutilized
Reason: Floodway.

Tracts 1810
Wartrace Creek Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson, TN 38551–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011485
Status: Underutilized
Reason: Floodway.

Tracts 2524
Jennings Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson, TN 38562–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011486
Status: Unutilized
Reason: Floodway.

Tracts 2905 and 2907
Webster
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson, TN 38551–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 319011487
Status: Unutilized
Reason: Floodway.

Tracts 2200 and 2201
Gainsboro Airport
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson, TN 38562–
Location: Big Bottom Road
Landholding Agency: COE
Property Number: 319011488
Status: Underutilized
Reason: Within airport runway clear zone, Floodway.

Tracts 710C and 712C
Sullivan Island
Cordell Hull Lake and Dam Project
Carthage Co: Smith, TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011489
Status: Unutilized
Reason: Floodway.

Tracts 2403, Hensley Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson, TN 38562–
Location: TN Highway 85
Landholding Agency: COE
Property Number: 319011490
Status: Unutilized
Reason: Floodway.

Tracts 2117C, 2118 and 2120
Cordell Hull Lake and Dam Project
Trace Creek
Gainsboro Co: Jackson TN 38562–
Location: Brooks Ferry Road
Landholding Agency: COE
Property Number: 319011491
Status: Unutilized
Reason: Floodway.

Tracts 424, 425 and 426
Cordell Hull Lake and Dam Project
Stone Bridge
Carthage Co: Smith, TN 37030–
Location: Sullivan Bend Road
Landholding Agency: COE
Property Number: 319011492
Status: Unutilized
Reason: Floodway.

Tracts 517
J. Percy Priest Dam and Reservoir
Suggs Creek Embayment
Nashville Co: Davidson, TN 37214–
Location: Interstate 40 to S. Mount Juliet Road

Landholding Agency: COE
Property Number: 319011493
Status: Underutilized
Reason: Floodway.

Tracts 1811
West Fork Launching Area
Smyrna Co: Rutherford, TN 37167–
Location: Florence road near Enon Springs Road
Landholding Agency: COE
Property Number: 319011494
Status: Underutilized
Reason: Floodway.

Tracts 1504
J. Perry Priest Dam and Reservoir
Lamon Hill Recreation Area
Smyrna Co: Rutherford, TN 37167–
Location: Lamon Road
Landholding Agency: COE
Property Number: 319011495
Status: Underutilized
Reason: Floodway.

Tracts 1500
J. Perry Priest Dam and Reservoir
Pools Knob Recreation
Smyrna Co: Rutherford, TN 37167–
Location: Jones Mill Road
Landholding Agency: COE
Property Number: 319011496
Status: Underutilized
Reason: Floodway.

Tracts 245, 257, and 256
J. Perry Priest Dam and Reservoir
Cook Recreation Area
Nashville Co: Davidson, TN 37214–
Location: 2.2 miles south of Interstate 40 near Saunders Ferry Pike.
Landholding Agency: COE
Property Number: 319011497
Status: Underutilized
Reason: Floodway.

Tracts 107, 109 and 110
Cordell Hull Lake and Dam Project
Two Prong
Carthage Co: Smith, TN 37030–
Location: US Highway 85
Landholding Agency: COE
Property Number: 319011498
Status: Unutilized
Reason: Floodway.

Tracts 2919 and 2929
Cordell Hull Lake and Dam Project
Sugar Creek
Gainsboro Co: Jackson, TN 38562–
Location: Sugar Creek Road
Landholding Agency: COE
Property Number: 319011500
Status: Unutilized
Reason: Floodway.

Tracts 1218 and 1204
Cordell Hull Lake and Dam Project
Granville—Alvin Yourk Road
Granville Co: Jackson, TN 38564–
Landholding Agency: COE
Property Number: 319011501
Status: Unutilized
Reason: Floodway.

Tract 2100
Cordell Hull Lake and Dam Project
Galbreaths Branch
Gainesboro Co: Jackson, TN 38562–
Location: TN Highway 53
Landholding Agency: COE
Property Number: 319011502
Status: Unutilized
Reason: Floodway.

Tract 104 et. al.
Cordell Hull Lake and Dam Project
Horshoe Bend Launching Area
Carthage Co: Smith, TN 37030–
Location: Highway 70 N
Landholding Agency: COE
Property Number: 319011504
Status: Underutilized
Reason: Floodway.

Tracts 510, 511, 513 and 514
J. Percy Priest Dam and Reservoir Project
Lebanon Co: Wilson TN 37087–
Location: Vivrett Creek Launching Area, Alvin Sperry Road
Landholding Agency: COE
Property Number: 319120007
Status: Underutilized
Reason: Floodway.

Tract A–142, Old Hickory Beach
Old Hickory Blvd.
Old Hickory Co: Davidson, TN 37138–
Landholding Agency: COE
Property Number: 319130008
Status: Underutilized
Reason: Floodway.

Texas

Tracts 104, 105–1, 105–2 and & 118
Joe Pool Lake
Co: Dallas, TX
Landholding Agency: COE
Property Number: 319010397
Status: Underutilized
Reason: Floodway.

Part of Tract 201–3
Joe Pool Lake
Co: Dallas, TX
Landholding Agency: COE
Property Number: 319010398
Status: Underutilized
Reason: Floodway.

Part of Tract 323
Joe Pool Lake
Co: Dallas, TX
Landholding Agency: COE
Property Number: 319010399
Status: Underutilized
Reason: Floodway.

Tract 702–3
Granger Lake
Route 1, Box 172
Granger Co: Williamson, TX 76530–9801
Landholding Agency: COE
Property Number: 319010401
Status: Unutilized
Reason: Floodway.

Tract 706
Granger Lake
Route 1, Box 172
Granger Co: Williamson, TX 76530–9801
Landholding Agency: COE
Property Number: 319010402
Status: Unutilized
Reason: Floodway.

Virginia

0.07 Acre, Dismal Swamp Canal
West of U.S. Rt. 17
Chesapeake, VA
Landholding Agency: COE
Property Number: 319210012
Status: Unutilized
Reason: Other
Comment: Inaccessible.

Washington

Land (Report 2), 234 acres
Naval Supply Center, Puget Sound
Manchester Co: Kitsap, WA 98353–
Landholding Agency: Navy
Property Number: 779010231
Status: Unutilized
Reason: Secured Area.

West Virginia

Ohio River
Pike Island Locks and Dam
Buffalo Creek
Wellsburg Co: Brooke, WV
Landholding Agency: COE
Property Number: 319011529
Status: Unutilized
Reason: Floodway.

Morgantown Lock and Dam
Box 3 RD # 2
Morgantown Co: Monongahelia, WV 26505–
Landholding Agency: COE
Property Number: 319011530
Status: Unutilized
Reason: Floodway.

London Lock and Dam
Route 60 East
Rural Co: Kanawha, WV 25126–
Location: 20 miles east of Charleston, W. Virginia.
Landholding Agency: COE
Property Number: 319011690
Status: Unutilized
Reason: Other
Comment: .03 acres; very narrow strip of land located too close to busy highway.

[FR Doc. 92–4883 Filed 3–5–92; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–02–4320–14]

Las Cruces District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The meeting will be held at the Las Cruces District Office, Bureau of Land Management, 1800 Marquess, Las Cruces, New Mexico 88005. The purpose of the meeting is to set priorities for range improvement projects. The agenda is:

1. 9:30 a.m.—Opening remarks.
2. 9:35 a.m.—Approval of previous minutes and agenda.
3. 9:45 a.m.—Update on range improvements previous meeting.
4. 10 a.m.—Presentation and discussion of GAO report on BLM's Grazing Program in the Hot Deserts.
5. 10:15 a.m.—Update on Mimbres RMP.

6. 10:30 a.m.—Update on the Cuchillo Allotment, Caballo Resource Area.
7. 10:45 a.m.—Presentation of new range improvement projects.
8. 12 noon—Lunch.
9. 1 p.m.—Reconvene and continue project presentation.
10. 2 p.m.—Break for public comment period.
11. 2:30 p.m.—Continue with project presentation and prioritizations of projects.
12. 3:30 p.m.—Adjourn.

MEETING DATE: April 8, 1992, beginning at 9:30 a.m.

FOR FURTHER INFORMATION CONTACT: Jim McCormick, District Range Conservationist, Bureau of Land Management, 1800 Marquess, Las Cruces, New Mexico or at (505) 525–8228.

Dated: February 26, 1992.

Josie Banegas,

Acting District Manager.

[FR Doc. 92–5184 Filed 3–5–92; 8:45 am]

BILLING CODE 4310–FB–M

[NM–060–02–4111–10–608]

Motor Vehicle Use Restrictions; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency vehicle closure of public lands.

SUMMARY: Notice is hereby given that effective immediately the following described public lands within the Roswell District are closed to all vehicle use except those having written authorization in their possession by authorizing officer. The purpose of this closure is to prevent any adverse environmental impacts from occurring to the resources present on these lands, while a Coordinated Resource Management Plan is being developed.

New Mexico Principal Meridian

T. 25 S., R. 24 E.,
Sec. 25—Those portions of the NW¼ NW¼, SW¼ NW¼ lying southerly and easterly of Eddy County Road 418.
T. 25 S., R. 24 E.,
Sec. 26—Those portion of the E½, SE¼ SW¼ lying southerly and easterly of Eddy County Road 418.
T. 25 S., R. 24 E.,
Sec. 35—Those portions of the N½, SW¼, lying southerly and easterly of Eddy County Road 418. More particularly described by the cadastral survey that can be found at listed address.
T. 25 S., R. 24 E.,
Sec. 34—E½, SE¼
T 26 S., R. 24 E.,
Sec. 2—W½ NW¼, NW¼ SW¼.
T. 26 S., R. 24 E.,
Sec. 3—E½ NE¼, NE¼ SE¼, S½ SE¼.
T. 26 S., R. 24 E.,
Sec. 10—NE¼ NE¼.

DATES: Effective March 1, 1992, until April 1, 1993.

ADDRESSES: The area which is closed to vehicle use are identified on maps available upon request from the following Bureau of Land Management Offices: Roswell District Office, 1717 W. Second Street, P.O. Box 1397, Roswell, NM 88201; or Carlsbad Resource Area Office, 101 E. Mermod, P.O. Box 1778, Carlsbad, NM 88220.

FOR FURTHER INFORMATION CONTACT: Richard Manus, 505 887–6544.

SUPPLEMENTARY INFORMATION: The authority for this closure is 43 CFR 8341.2. Penalties for any person failing to comply with this closure are a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months (43 CFR 8341.0–7 Penalties).

Dated: February 26, 1992.

Tony L. Ferguson,

Associate District Manager.

[FR Doc. 92–5178 Filed 3–5–92; 8:45 am]

BILLING CODE 4310–FB–M

[NM–030–02–4212–24]

Road Closure; Caballo Resource Area, NM

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In order to protect public health and safety, this order closes a road located on public land in T. 15 S., R. 7 W., Sec. 36, New Mexico Principal Meridian, in Sierra County, New Mexico.

DATES: This closure goes into effect on March 6, 1992, and shall remain in effect until revoked or modified by the authorized officer.

FOR FURTHER INFORMATION CONTACT: Dwayne Sykes, Acting Multi-Resources Staff Chief, Caballo Resource Area, 1800 Marquess, Las Cruces, New Mexico 88005, (505) 525–8228.

SUPPLEMENTARY INFORMATION: The authority for this closure is 43 CFR, part 8364. Any person who fails to comply with this order is subject to arrest and a fine of up to $1,000 and/or imprisonment not to exceed 12 months. This closure applies to all members of the public except authorized personnel from the Department of the Interior on official business, private landowners, or other persons specifically authorized access by the authorized officer.

Dated: February 28, 1992.

Richard T. Watts,

Acting District Manager.

[FR Doc. 92–5177 Filed 3–5–92; 8:45 am]

BILLING CODE 4310–FB–M

[AZ 020–02–4212–12 (AZA 26491)]

Realty Action: Exchange of Public Lands, Maricopa, La Paz, Mohave, Pinal and Pima Counties, AZ

BLM proposes to exchange public lands in order to achieve more efficient management of the public land through consolidation of ownership.

Portions or all of public lands within the following townships, ranges and sections are being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716. Approximately 5,211.04 acres are identified.

Gila and Salt River Meridian, Arizona

T. 2 N., R. 6 E.,
Sec. 24.
T. 4 N., R. 19 W.,
Secs. 4 and 9.
T. 22 N., R. 19 W.,
Secs. 12, 14, 20, 30.
T. 5 S., R. 4 E.,
Sec. 13.
T. 5 S., R. 5 E.,
Secs. 16 and 17.
T. 17 S., R. 15 E.,
Secs. 5, 7 and 8.

Detailed information concerning this exchange may be obtained from Barbara Ahearn, realty specialist, at (602) 863–4464.

Final determination on disposal will await completion of an environmental assessment.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the affected public lands and minerals from appropriation under the public land laws and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: February 26, 1992.

Sandra R. Nelson,

Acting District Manager.

[FR Doc. 92–5183 Filed 3–5–92; 8:45 am]

BILLING CODE 4310–32–M

Bureau of Reclamation

[INT DES 92–9]

Los Vaqueros Project, Contra Costa County., CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability and notice of public hearings.

SUMMARY: Pursuant to section 102(s)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, and section 21002 of the California Environmental Quality Act (CEQA), the Bureau of Reclamation (Reclamation), and Contra Costa Water District (CCWD) have prepared a Stage 2 draft environmental impact report/draft environmental impact statement (DEIR/DEIS) for the Los Vaqueros Project in California. Since Clean Water Act permits are required, the Corps of Engineers (COE) is a cooperating agency. The Stage 2 DEIR/DEIS describes and presents the environmental effects of five alternatives, including no action, to improve the quality of water supplied to CCWD customers, minimize seasonal quality changes, and improve the reliability of the CCWD supply by providing emergency storage.

DATES: A 60-day public review period commences with the publication of EPA's Notice of Availability. Within that review period, written comments on the DEIR/DEIS may be submitted to CCWD at the address provided below.

Public hearings on the Stage 2 DEIR/DEIS will be held:

Hearing 1—April 7, 1992, 7:30 p.m., Granada High School, Student Union Building, 400 Wall Street, Livermore, California.

Hearing 2—April 9, 1992, 7:30 p.m., City of Antioch, City Council Chambers Third and "H" Streets, Antioch, California.

Hearing 3—April 13, 1992, 7:30 p.m., Contra Costs Water District, Board Room, 1331 Concord Avenue, Concord, California.

ADDRESSES: Copies of the Stage 2 DEIR/DEIS may be requested from CCWD or Reclamation at the following addresses:

- Regional Director, Bureau of Reclamation, Mid-Pacific Regional Office, 2800 Cottage Way, Sacramento CA 95825–1898; telephone: (916) 978–5130.
- Mr. John S. Gregg, Assistant General Manager, Contra Costa Water District, P.O. Box H20, Concord CA 94524; telephone: (510) 674–8000.

Copies of the Stage 2 DEIR/DEIS are available for inspection at the addresses above and at the following locations:

- Office of the Commissioner, Bureau of Reclamation, Technical Liaison Division, 18th and C Streets, NW, room 7456, Washington DC 20240; telephone: (202) 208–4662.
- Denver Office, Bureau of Reclamation, Library, room 167, Building 67, Denver Federal Center, Denver, CO 80225; telephone: (303) 236–6963.

Libraries

- California State Library, Government Publications Section, 2000 Jed Smith Drive, Sacramento CA 95819.
- City of Livermore Public Library-Springtown, 998 Bluebell Drive, Livermore CA 94550.
- City of Livermore Public Library, 1000 S. Livermore, Livermore CA 94550.
- Contra Costa County Public Library, 501 W. 18th Street, Antioch CA 94509.
- Contra Costa County Public Library, 210 O'Hara Avenue, Oakley CA 94561.
- Contra Costa County Public Library, 751 Third Street, Brentwood CA 94513.
- Contra Costa County Public Library, 2900 Salvio Street, Concord CA 94520.
- Contra Costa County Public Library, 80 Power Avenue, Pittsburgh CA 94586.
- Contra Costa County Public Library, 740 Court Street, Martinez CA 94553.
- Contra Costa County Public Library, 1644 North Broadway, Walnut Creek CA 94596.
- Contra Costa County Public Library, 1750 Oak Park Boulevard, Pleasant Hill CA 94523.
- U.S. Geological Survey Library, 345 Middlefield Road, Menlo Park CA 94025.
- University of California, Water Resources Library, 410 O'Brien Hall, Berkeley CA 94720.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Darling or Ms. Janice Hutton, Contra Costa Water District, P.O. Box H20, Concord CA 94524; telephone: (510) 674–8130; or Mr. Douglas Kleinsmith, Bureau of Reclamation, Mid-Pacific Region, 2800 Cottage Way, Sacramento CA 95825–1898; telephone: (916) 978–5121.

SUPPLEMENTARY INFORMATION: The preferred alternative would consist of constructing a dam and reservoir on Kellogg Creek, south of the city of Brentwood in southeastern Contra Costa County; a new point of diversion in the Sacramento-San Joaquin Delta; associated water conveyance and delivery facilities; pumping plants; and other facilities. The project would require the realignment of Vasco Road, an important county arterial roadway that would be inundated by the project, and relocation of several buried pipelines and electrical power transmission lines. The reservoir would have about 100,000 acre-feet of storage and would cover about 1,500 acres.

The Los Vaqueros Project would be funded, built, and operated by CCWD. The total cost for the project is estimated at $350 million in 1988 dollars. CCWD is seeking an amendment to its existing Water Service Contract (I75r–3401) Amended, with Reclamation to accommodate operation of the Los Vaqueros Project and certain repayment conditions. Accordingly, Reclamation is serving as the lead Federal agency responsible for NEPA compliance on the proposed project. Permits are required for the discharge of dredged or fill material into waters of the United States under section 404 of the Clean Water Act and for work in navigable waters under section 10 of the Rivers and Harbors Act. As a result, the Corps of Engineers is a cooperating agency.

Other alternatives evaluated in the Stage 2 DEIR/DEIS are a Kellogg Reservoir at a site adjacent to the Los Vaqueros site; a desalination plant combined with an intertie with East Bay Municipal Utility District's (EBMUD) water supply system; a new supplemental intake along Middle River combined with an intertie with EBMUD; and no action.

CCWD has followed a staged approach to its environmental documentation for the Los Vaqueros Project as provided by CEQA. In 1986, CCWD completed and certified the Stage 1 EIR for the Los Vaqueros Project to evaluate a full range of alternative options for meeting project objectives and to identify impacts of watershed acquisition and management. At the conclusion of the State 1 EIR, CCWD narrowed the range of options to reservoir concepts within the Kellogg Creek watershed as the only alternative capable of achieving all project objectives. CCWD also prepared the Vasco Road and Utility Relocation Project EIR, pursuant to State CEQA Guidelines, to assess impacts of relocating Vasco Road and several major utility facilities located in the project area.

The Stage 2 DEIR/DEIS is the second stage (Stage 2) of the Los Vaqueros environmental documentation. It incorporates significant findings from the Stage 1 EIR and the Vasco Road and Utility Relocation EIR, as well as detailed and comprehensive evaluations of the Los Vaqueros Project and alternatives to the project.

Hearing Process Information

Organizations and individuals wishing to present statements at the hearing should contact CCWD's office at the above address to announce their intention to participate. Requests for scheduled presentations will be accepted through 4 p.m. on April 6, 1992, and may also be made at each hearing. Requests should indicate at which hearing the speaker wishes to appear. Speakers will be called upon to present their comments in the order in which requests were received. Advance requests will be called before requests made at the hearings. Oral comments will be limited to 5 minutes per individual. Speakers not present when called will lose their privilege in the scheduled order and will be recalled at the end of the scheduled speakers.

Written comments from those unable to attend or those wishing to supplement their oral presentations at the hearings should be received by CCWD's office at the above address by April 23, 1992, for inclusion in the hearing record. Comments received after that day but prior to the end of the 60-day public comment period will be addressed in the final environmental impact report/final environmental impact statement.

Note: If special assistance is required, contact Janice Hutton at (510) 674–8130. Please notify Ms. Hutton as far in advance of the hearings as possible and no later than April 1, 1992, to enable CCWD to secure the needed services. If a request cannot be honored, the requester will be notified. A telephone device for the hearing impaired (TDD) is available at (916) 978–4417.

Dated: February 28, 1992.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 92–5283 Filed 3–5–92; 8:45 am]

BILLING CODE 4310–09–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 February 22, 1992. 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 March 23, 1992.

Carol D. Shull,

Cheif of Registration, National Register.

INDIANA

Delaware County

Westwood Historic District, Roughly bounded by Briar, Petty and Warwick Rd. and Riverside Ave., Muncie, 92000186

Elkhart County

Miller, Arthur, House, 253 E. Market St., Nappanee, 92000184

Montgomery County

Crawfordsville Commercial Historic District, Roughly bounded by Walnut, North and Waters Sts. and Wabash Ave., Crawfordsville, 92000183

Elston Grove Historic District, Roughly bounded by Green, College and Main Sts., and the Monon RR tracks, Crawfordsville, 92000187

Posey County

Welborn Historic District, Roughly bounded by Ninth, Locust and 2nd Sts. and the alley between Walnut and Main Sts., Mt. Vernon, 92000188

Pulaski County

Tepicon Hall (New Deal Resources in Indiana State Parks MPS), Tippecanoe River State Park, Winamac vicinity, 92000189

Steuben County

Combination Shelter (New Deal Resources in Indian State Parks MPS), Pokagon State Park, Angola vicinity, 92000190

TEXAS

Bell County

Norton—Orgain House (Salado MRA), Main St., Salado, 92000185

Taylor County

1915 Taylor County Courthouse (Abilene MPS), 301 Oak St., Abilene, 92000225

Abilene Christian College Administration Building (Abilene MPS), Campus Court Dr., Abilene Christian University, Abilene, 92000193

Abilene Fire Station No. 2 (Abilene MPS), 441 Butternut, Abilene, 92000200

Abilene Street Railway Company Barn (Abilene MPS), 1037 Clinton St., Abilene, 92000205

Ackers, William and Mary, House (Abilene MPS), 802 Mulberry St., Abilene, 92000214

Blanton, Thomas L., House (Abilene MPS), 3425 S. Seventh St., Abilene, 92000234

Boyd—Hall House (Abilene MPS), 502 Poplar St., Abilene, 92000229

Caldwell Hall (Abilene MPS), Intracampus Dr., Hardin—Simmons University, Abilene, 92000206

Cash, H.A.V., House (Abilene MPS), 1302 Amarillo, Abilene, 92000195

Castle, David, S., House (Abilene MPS), 1742 N. Second St., Abilene, 92000218

Chambers, Samuel A., House (Abilene MPS), 224 Merchant, Abilene, 92000211

Davis, George R., House (Abilene MPS), 718 Victoria, Abilene, 92000237

Dillingham, O.D. and Ada, House (Abilene MPS), 1625 Belmont, Abilene, 92000199

Dodd—Harkrider House (Abilene MPS), 2026 N. Third St., Abilene, 92000222

Evans, J.W., House (Abilene MPS), 258 Clinton St., Abilene, 92000204

Federal Building (Abilene MPS), 341 Pine, Abilene, 92000228

Finley, Eugene L., House (Abilene MPS), 208 Merchant, Abilene, 92000210

First Presbyterian Church (Abilene MPS), 402 Orange St., Abilene, 92000226

Fritz, David C. and Docia, House (Abilene MPS), 1325 N. Eighteenth St., Abilene, 92000215

Goodloe, Albert S. and Ruth, House (Abilene MPS), 1302 Sayles Blvd., Abilene, 92000232

Green, Roland, A.D., House (Abilene MPS), 1358 Highland, St., Abilene, 92000207

Higginbotham, J.G., House (Abilene MPS), 2102 Swenson, Abilene, 92000236

House at 1127 Ash Street (Abilene MPS), 1127 Ash St., Abilene, 92000196

Hughes, Ed S., Company Warehouse (Abilene MPS), 135 Oak St., Abilene, 92000224

Jones, A.T. House (Abilene MPS), 418 Merchant, Abilene, 92000212

Lanius, C.A., House (Abilene MPS), 1942 N. Third St., Abilene, 92000221

Luce Hall (Abilene MPS), Campus Court Dr., N of Administration Building, Abilene Christian University, Abilene 92000194

Magee, J.D., House (Abilene MPS), 1910 N. Third St., Abilene, 92000220

McDaniel, George H. and Lavina, House (Abilene MPS), 774 Butternut, Abilene, 92000201

McDonald Hall (Abilene MPS), 2063 N. Second St., Abilene, 92000219

McMurry College Administration Building (Abilene MPS), Off Hunt, McMurry College, Abilene, 92000209

Minter, William A., House (Abilene MPS), 340 Beech St., Abilene, 92000198

Motz, Charles, House (Abilene MPS), 1842 N. Fifth St., Abilene, 92000216

Parramore, D.D., House (Abilene MPS), 542 Poplar St., Abilene, 92000230

Radford, James M., Grocery Company Warehouse (Abilene MPS), 101 Oak St., Abilene, 92000223

Reading, Jhules, House (Abilene MPS), 421 Reading St., Abilene, 92000231

Roberts, Nathan J. and Nancy, House (Abilene MPS), 1430 S. Sixth St., Abilene, 92000235

Sacred Heart Catholic Church (Abilene MPS), 1633 S. Eight St., Abilene, 92000233

Stith, William and Evla, House (Abilene MPS), 346 Mulberry St., Abilene, 92000213

Thomas, Oscar P., House (Abilene MPS), 210 Clinton St., Abilene, 92000203

Universal Manufacturing Company Building (Abilene MPS), 150 Locust St., Abilene, 92000208

West Texas Utilities Company Power Plant (Abilene MPS), 100 Block of N. Second St., Abilene, 92000217

Williamson, E.D., House (Abilene MPS), 641 Chestnut St., Abilene, 92000202

Wooten, Horace O., Grocery Company Warehouse (Abilene MPS), 101 Walnut, Abilene, 92000238

Wooten, Horace O., House (Abilene MPS), 242 Beech St., Abilene, 92000197

Zabloudil—Hendrick House (Abilene MPS), 802 Orange St., Abilene, 92000227

[FR Doc. 92–5099 Filed 3–5–92; 8:45am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: F.A. Sims Oil Company, Inc., P.O. Box 345, 550 North Clayton Street, Lawrenceville, GA 30246.

2. Wholly owned subsidiary which will participate in the operations, and State of incorporation: Petroleum Transport, Inc., P.O. Box 345, 550 North Clayton Street, Lawrenceville, GA—incorporated in GA.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–5238 Filed 3–5–92; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31999]

Arkansas Midland Railroad Co., Inc.; Acquisition and Operation Exemption; Missouri Pacific Railroad Co.

Arkansas Midland Railroad Company, Inc. (AMR), a noncarrier, wholly owned subsidiary of Pinsly Railroad Company, Inc. (Pinsly), has filed a notice of exemption to acquire and operate 131.1 miles of rail line in Arkansas owned by Missouri Pacific Railroad Company. The line segments are as follows: (1) Between milepost 102.28, near Carlisle, and milepost 130.33, near North Little Rock; (2) between milepost 326.57, near Wycamp, and milepost 338.6, at Helena; (3) between milepost 388.96, at Malvern, and the end of the line at milepost 422.3+1, Mountain Pine; and (4) between milepost 426.88, at Gurdon, and milepost 479.2, at Birds Mill. The transaction was to have been consummated on or about February 23, 1992.

This transaction is related to a verified notice concurrently filed in Finance Docket No. 32001, *Pinsly Railroad Company, Inc.—Continuance in Control Exemption—Arkansas Midland Railroad Company, Inc.*, to exempt Pinsly's continuance in control of AMR on its becoming a class III carrier.

Any comments must be filed with the Commission and served on: Robert L. Calhoun, Sullivan & Worcester, suite 806, 1025 Connecticut Avenue, NW., Washington, DC 20036.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 2, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–5240 Filed 3–5–91; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32001]

Pinsly Railroad Co., Inc.; Continuance in Control Exemption; Arkansas Midland Railroad Co., Inc.

Pinsly Railroad Company, Inc. (Pinsly), has filed a verified notice for an exemption to continue to control Arkansas Midland Railroad Company, Inc. (AMR), a noncarrier, on AMR's becoming a class III carrier. Pinsly now controls five class III railroads: Greenville & Northern Railway Company, Pioneer Valley Railroad Company, Inc., Florida Central Railroad Company, Inc., Florida Midland Railroad Company, Inc., and Florida Northern Railroad Company, Inc.[1]

AMR, a wholly owned subsidiary of Pinsly, has concurrently filed a verified notice in Finance Docket No. 31999, *Arkansas Midland Railroad Company, Inc.—Acquisition and Operation Exemption—Missouri Pacific Railroad Company*, for an exemption to acquire and operate 131.1 miles of rail line in Arkansas owned by Missouri Pacific Railroad Company.

Pinsly indicates that: (1) The properties of the named carriers will not connect with each other or any other railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any other railroad in their corporate family; and, (3) the transaction does not involve a class I carrier.

Therefore, this transaction involves the continuance in control of nonconnecting carriers and is exempt from the prior review requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees adversely affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Robert L. Calhoun, Sullivan & Worcester, suite 806, 1025 Connecticut Avenue, NW., Washington, DC 20036.

Decided: March 2, 1992.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–5239 Filed 3–5–92; 8:45 am]

BILLING CODE 7035–01–M

[1] Pinsly's control of these carriers was approved or exempted in Finance Docket Nos. 19776, 30992, 31152, 31369, and 29980.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the 6th floor conference room, Public Ledger Building, 6th and Chestnut Streets, Philadelphia, Pennsylvania, on April 2, 1992, beginning at 8:30 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in title 29 U.S. Code, section 1242(a)(1)(B).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that the subject of the meeting falls within the exception to the open meeting requirement set forth in title 5 U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: March 2, 1992.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 92–5186 Filed 3–5–92; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: April 3, 1992, 2 pm–4, rm. N–3437 A&B, Department of Labor Building, 200 Constitution Ave., NW., Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

FOR FURTHER INFORMATION CONTACT: Fernand Lavallee, Director, Trade Advisory Group, Phone: (202) 523–2752.

Signed at Washington, DC this 28th day of February 1992.

Shellyn G. McCaffrey,

Deputy Under Secretary, International Affairs.

[FR Doc. 92–5215 Filed 3–5–92; 8:45 am]

BILLING CODE 4510–28–M

Office of the Secretary

All Items Consumer Price Index for All Urban Consumers, United States City Average

Pursuant to section 112 of th 1976 amendments to the Federal Election Campaign Act (Pub. L. 94–283, 2 U.S.C. 441a), the Secretary of Labor has certified to the Chairman of the Federal Election Commission and publishes this notice in the **Federal Register** that the United States City Average All Items Consumer Price Index for All Urban Consumers (1967=100) increased 176.2 percent from its 1974 annual average of 147.7 to its 1991 annual average of 408.0. Using 1974 as a base (1974=100), I certify that the United States City Average All Items Consumer Price Index for All Urban Consumers thus increased 176.2 percent from its 1974 annual average of 100 to its 1991 annual average of 276.2.

Signed at Washington, DC., on the 27th day of February 1992.

Lynn Martin,

Secretary of Labor.

[FR Doc. 92–5207 Filed 3–5–92; 8:45 am]

BILLING CODE 4510–24–M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., room S–3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume I

Florida:
FL91–49 (Mar. 6, 1992)..... p. All.
Tennessee:
TN91–35 (Mar. 6, 1992)..... p. All.
TN91–36 (Mar. 6, 1992)..... p. All.
TN91–37 (Mar. 6, 1992)..... p. All.

Volume II

Missouri:
MO91–14 (Mar. 6, 1992) ..... p. All.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New York:
NY91-12 (Feb. 22, 1991..... p. 893, p. 899.
NY91-20 (Feb. 22, 1991..... p. 949, p. 952.
NY91-21 (Feb. 22, 1991..... p. 952a, pp. 952b-952h.
South Carolina
SC91-2 (Feb. 22, 1991 ..... p. All.
Tennessee:
TN91-4 (Feb. 22, 1991)..... p. 1199, pp. 1200-1202.
Virginia:
VA91-31 (Feb. 22, 1991).... p. All.
VA91-32 (Feb. 22, 1991).... p. All.
VA91-37 (Feb. 22, 1991).... p. All.
VA91-38 (Feb. 22, 1991).... p. All.
VA91-42 (Feb. 22, 1991).... p. All.
VA91-43 (Feb. 22, 1991).... p. All.
VA91-44 (Feb. 22, 1991).... p. All.
VA91-48 (Feb. 22, 1991).... p. All.
VA91-49 (Feb. 22, 1991).... p. All.
VA91-52 (Feb. 22, 1991).... p. All.
VA91-55 (Feb. 22, 1991).... p. All.

Volume II

Arkansas
AR91-8 (Feb. 22, 1991)..... p. All.
Illinois:
IL91-9 (Feb. 22, 1991) ..... p. 153, p. 154
IL91-13 (Feb. 22, 1991) ..... p. 183, p. 184
IL91-16 (Feb. 22, 1991) ..... p. 215, pp. 218-224b.
Michigan:
MI91-2 (Feb. 22, 1991)..... p. 461, p. 465.
MI91-5 (Feb. 22, 1991)..... p. 499, p. 502.
Oklahoma:
OK91-13 (Feb. 22, 1991).... p. 977, p. 978.
OK91-18 (Feb. 22, 1991).... p. 1005, p. 1006.
OK91-19 (Feb. 22, 1991).... p. 1009, p. 1010.
OK91-20 (Feb. 22, 1991).... p. 1011, p. 1012.

Volume III

Idaho:
ID91-1 (Feb. 22, 1991)..... p. All.
North Dakota:
ND91-2 (Feb. 22, 1991)..... p. 285, p. 286.
Montana:
MT91-2 (Feb. 22, 1991)..... p. All.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from:

Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 28th day of February 1992.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92-5005 Filed 3-5-92; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 16, 1992.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not late than March 16, 1992.

The petition filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 24th day of February 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Brad, Inc. (Workers)	Meriden, CT	02/24/92	02/05/92	26,878	Dresses and suits.
Christy Fashions (ILGW)	Glen Lyon, PA	02/24/92	02/11/92	26,879	Blouses.
Crest Shoe/Div. of Ballet Makers (UFCW)	Lewiston, ME	02/24/92	01/31/92	26,880	Casual shoes.
Diesel Recon (Workers)	El Paso, TX	02/24/92	02/10/92	26,881	Diesel engines.
Dynascan Corp. (Workers)	Chicago, IL	02/24/92	02/10/92	26,882	Phones and answering machines.
Fisher-Price (Workers)	San Ysidro, CA	02/24/92	02/10/92	26,883	Toys.
Fisher-Price (Workers)	Brownsville, TX	02/24/92	02/10/92	26,884	Toys.
Fisher-Price (Workers)	El Paso, TX	02/24/92	02/10/92	26,885	Toys.
FSI International (Co)	Chaska, MN	02/24/92	02/04/92	26,886	Semiconductor Mfg equipment.
Golden Glove Mfg. Inc. (Workers)	Fort Dodge, IA	02/24/92	02/06/92	26,887	Leather goods.
Joseph Feldman, Inc. (Workers)	Wallingford, CT	02/24/92	02/05/92	26,888	Dresses and suits.
Joseph Feldman, Inc. (Workers)	New York, NY	02/24/92	02/05/92	26,889	Dresses and suits.
Karen (Workers)	New Britain, CT	02/24/92	02/05/92	26,890	Dresses and suits.
Kathy Ann Sportswear, Inc. (Workers)	Jim Thorpe, PA	02/24/92	02/12/92	26,891	Shirts and blouses.
Pennsylvania Engineering Corp (UAW)	New Castle, PA	02/24/92	02/12/92	26,892	Steel ladles, transfer cars.
R&H Enterprises, Inc. (Workers)	Osseo, MN	02/24/92	02/07/92	26,893	Pressure washers and steam cleaners.
Sarif Apparel (ILGWU)	East Newark, NJ	02/24/92	02/12/92	26,894	Rainwear.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
SL-Waber, Inc. (Workers)	Bewsalem, PA	02/24/92	02/12/92	26,895	Multiple electrical outlet strips.
Sonat Offshore Drilling (Workers)	Lafayette, LA	02/24/92	02/22/92	26,896	Oil and gas.
Spacelabs, Inc. (Workers)	Hills, OR	02/24/92	02/12/92	26,897	Medical monitoring equipment.
State Mfg Co., Inc. (Workers)	New Philadelphia, PA	02/24/92	02/14/92	26,898	Military clothing.
Taunton Engineering Co., Inc. (Co)	Taunton, MA	02/24/92	02/07/92	26,899	Bucket elevators, conveyor systems.
William Brooks Shoe Co. (ACTWU)	Nelsonville, OH	02/24/92	02/14/92	26,900	Mens and womens footwear.

[FR Doc. 92–5216 Filed 3–5–92; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–26,714]

C.A.D. Fashions, Inc., Newark, NJ; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 6, 1992 in response to a worker petition which was filed on January 6, 1992 on behalf of workers at C.A.D. Fashions, Incorporated, Newark, New Jersey.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 25th day of February 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92–5214 Filed 3–5–92; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–26,405]

Construction Specialties, Inc. Cranford, NJ; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 13, 1991, applicable to all workers of Construction Specialties, Inc., Cranford, New Jersey. The Notice was published in the **Federal Register** on December 27, 1991 (56 FR 4648).

The Department is amending the certification to include manufacturing workers who will become unemployed after the originally scheduled date that served as the basis for the termination date in the original certification.

It is the intention of the Department's certification to include all manufacturing workers of Construction Specialties, Inc. who were adversely affected by increased imports.

The amended notice applicable to TA–W–26,405 is hereby issued as follows:

All workers of Construction Specialties, Inc., Cranford, New Jersey, except administrative and office staff engaged in corporate activities, who became totally or partially separated from employment on or after September 16, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC this 27th day of February 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92–5208 Filed 3–5–92; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–26,517]

Harkins and Co., Alice, TX, Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to apply for Worker Adjustment Assistance on December 19, 1991, applicable to all workers of Harkins and Company, Alice, Texas. The notice was published in the **Federal Register** on January 9, 1992 (57 FR 932).

At the request of the Texas Employment Commission the Department reviewed the subject certification. New information shows that workers of Harkins and Company were not limited to the Alice, Texas location, but employed throughout South Texas, including the Gulf Coast Region.

It is the intention of the Department's certification to include all employees of Harkins and Company who were adversely affected by increased imports.

The amended notice applicable to TA–W–26,517 is hereby issued as follows:

All workers of Harkins and Company headquartered in Alice, Texas, with locations throughout South Texas and the Gulf Coast region who became totally or partially separated from employment on or after January 1, 1991, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 28th day of February 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92–5211 Filed 3–5–92; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–26,648]

Marine Drilling Companies, Inc., Sugarland, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) as amended by the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418), the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is determined in this case that all of the requirements have been met.

The investigation was initiated in response to a petition received on December 9, 1991, and filed on behalf of workers at Marine Drilling Companies, Inc., Sugarland, Texas. The workers are engaged in activities related to exploration and drilling for unaffiliated firms in the oil and gas industry.

Workers were not separately identifiable by product.

Work on natural gas wells represents an important portion of activity related to exploration and drilling by the subject firm.

United States imports of dry natural gas increased absolutely and relative to domestic shipments in 1990 compared to 1989 and in the first seven months of 1991 compared to the same period in 1990. The exploration and drilling end of the crude oil and natural gas industry is sensitive to the level of imports and

changes in the price level of dry natural gas. The impact of dry natural gas imports and reduced price levels has resulted in declining U.S. exploration and drilling activity. The total number of rigs in operation, the total number of wells completed, and the number of gas wells drilled declined in the first eight months of 1991 compared to the same period in 1990.

The declines in revenues and employment in 1991 at the subject firm resulted from a decreased demand for exploration and drilling activities from oil and gas industry clients due to the 25 percent increase in U.S. dry natural gas imports from 1986 through the first seven months of 1991.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with dry natural gas contributed importantly to the decline in sales or production and to the total or partial separation of workers at Marine Drilling Companies, Inc., Sugarland, Texas. In accordance with the provisions of the Act, I make the following certification:

All workers of Marine Drilling Companies, Inc., Sugarland, Texas (including offshore drilling and related workers), who became totally or partially separated from employment on or after January 1, 1991, and before January 1, 1992, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 27th day of February 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-5209 Filed 3-5-92; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of February 1992.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,709; Rand & Rand, Inc., Philadelphia, PA

TA-W-26,686; Martin Blouse Co., Inc., Shenandoah, PA

TA-W-26,640; Custom Optics, Inc., Saddlebrook, NJ

TA-W-26,601; Holt-Williamson Mfg Co., Fayetteville, NC

TA-W-26,557; West Point Pepperell, Inc., Scottsboro, AL

TA-W-26,672; Meilink Industries, Inc., Whitehouse, OH

TA-W-26,538; New York Bronze Powder Co., Inc., Manton Cork Div., Cranford, NJ

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-26,693; Bethlehem Steel Corp., Coke Operation, Sparrows Point, MD

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,838; Ford Motor Co., Cleveland District Sales Office Brecksville, OH

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,530; Cole Hersee Co., South Boston, MA

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-26,815; Pan American Airway, Miami, FL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-26,721; Adobe Resources Corp., Midland, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-26,788; Swift-Eckrich, Inc., Detroit Lakes, MN

U.S. imports of slaughtered and processed poultry were negligible in 1991.

TA-W-26,701, TA-W-26,702 & TA-W-26,703; Harris Semiconductor Products Division, Mountaintop, PA, Somerville, NJ and Findlay, OH

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-26,704 & TA-W-26,705; Harris Semiconductor Products Division Melbourne, FL and Santa Clara, CA

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA-W-26,697; Briggs & Stratton Corp., Technology Div., Glendale, WI

A certification was issued covering all workers separated on or after December 13, 1990.

TA-W-26,681; Avison Lumber Co., Molalla, OR

A certification was issued covering all workers separated on or after December 13, 1990.

TA-W-26,807; J.D. Operating Co., Inc., Cairnbrook, PA

A certification was issued covering all workers separated on or after January 14, 1991.

TA-W-26,716; Northwest Alloys, Inc., Addy, WA

A certification was issued covering all workers separated on or after December 18, 1990.

TA-W-26,588; Western Atlas Int'l, Inc., Atlas Wireline Service Houston, TX & Operating at Various Locations in The Following States: A; TX, B; AK, C; CA, D; CO, E; IL, F; KS, G; LA, H; MI, I; MS, J; NV, K; NM, L; OK, M; WV, N; WY

A certification was issued covering all workers in the above cited states separated on or after November 12, 1990.

A certification was issued covering all workers of Atlas Wireline Services, Pampa, TX separated on or after September 1, 1991.

A certification was issued covering all workers of Atlas Wireline Services, Anchorage, AK and Ventura, CA separated on or after November 17, 1991.

A certification was issued covering all workers of Atlas Wireline Services,

Cody, Casper and Gilette, WY separated on or after June 30, 1991.

I hereby certify that the aforementioned determinations were issued during the month of February 1992. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: March 2, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-5251 Filed 3-5-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,740]

Scott Paper Co., Winslow, ME; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 13, 1992 in response to a worker petition which was filed on behalf of workers at Scott Paper Company, Winslow, Maine.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 27th day of February, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-5210 Filed 3-5-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26, 615]

Tri-State Oil Tools, Inc., Bossier City, LA; Negative Determination Regarding Application for Reconsideration

By an application dated February 3, 1992, a company official requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on January 24, 1992 and was published in the **Federal Register** on February 14, 1992 (57 FR 5471).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The Department's denial was based on the fact that the workers do not produce an article within the meaning of section 223(3) of the Trade Act.

The company official states that over 50 percent of Tri-State's business deals with "open-hole" work which is work performed during the drilling process. Its also stated that the workers perform the same work now as they did earlier when they were certified for trade adjustment assistance.

Investigation findings show that the Bossier City facility produced specialized tools for recovery operations which are used exclusively by Tri-State and are not marketed for resale or rented. Tri-State uses its tools to perform the service of open-hole and cased-hole fishing and recovery operations to retrieve broken, damaged or loose parts from well bores during the drilling process. The Department concludes that the workers of Tri-State are not directly involved in the drilling or exploring for gas and oil and as such do not meet the provisions of Section 1421(a)(1)(A) of the Omnibus Trade and Competitiveness Act of 1988 for workers from a firm or appropriate subdivision engaged in exploration and drilling for oil and natural gas.

Investigation findings also show that workers at Tri-State's Bossier City facility were certified earlier under TA-W-21,988 issued on January 31, 1989. It appears that TA-W-21,988 was inadvertently issued and, as such, would not serve as a precedent for workers filing under TA-W-26,615.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 25th day of February 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, Unemployment Insurance Service.

[FR Doc. 92-5213 Filed 3-5-92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

Meeting

AGENCY: National Commission on Severely Distressed Public Housing.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Commission on Severely Distressed Public Housing announces a forthcoming meeting of the Commission.

DATE: March 9, 1992, 9 a.m.-6 p.m.

ADDRESS: The Henley Park Hotel, 926 Massachusetts Avenue, NW., Washington, DC 20001, Conference Room: Eton.

FOR FURTHER INFORMATION CONTACT: Carmelita Pratt, Administrative Officer, The National Commission on Severely Distressed Public Housing, 1100 L Street, NW., #7121 Washington, DC 20005 (202) 275-6933.

TYPE OF MEETING: Executive Session-Close, 9 a.m.-12 Noon

By authority of section 10(d) of the Federal Advisory Committee Act this portion of the meeting being held on March 9, 1992, will be closed to public participation. Section 552b(c)(6) of the title 5, United States.

Reopen, 1 p.m.-6 p.m.

Due to scheduling difficulties, this notice could not be published 15 days prior to this meeting as required by Federal Advisory Committee Act.

Carmelita R. Pratt,

Administrative Officer.

[FR Doc. 92-5463 Filed 3-5-92; 8:45 am]

BILLING CODE 6820-07-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-322; License No. NPF-82]

In the Matter of Long Island Lighting Co. and Long Island Power Authority (Shoreham Nuclear Power Station).

Approving Transfer of License (Effective Immediately)

I

Long Island Lighting Company (LILCO) is the holder of Facility Operating License No. NPF-82 issued by the U.S. Nuclear Regulatory Commission (the NRC) pursuant to 10 CFR part 50 on April 21, 1989. The license was amended on June 14, 1991, to remove the authority to operate the Shoreham Nuclear Power Station (SNPS) in accordance with

conditions specified therein. The facility is located on the licensee's site in the Town of Brookhaven, Suffolk County, New York.

II

On February 28, 1989, LILCO entered into an agreement with the State of New York to transfer its Shoreham assets to an entity of the State for decommissioning. LILCO, however, continued to pursue with the NRC its request for a full-power license to operate its Shoreham plant. On April 21, 1989, the NRC issued to LILCO a Facility Operating License No. NPF–82, which allows full-power operation of the Shoreham plant. On June 28, 1989, LILCO's shareholders ratified LILCO's agreement with the State. Consistent with the terms of the settlement agreement, which prohibits further operation of the Shoreham facility, LILCO defueled the reactor and reduced its staff. Transfer of the Shoreham license to the State entity, the Long Island Power Authority (LIPA), requires NRC authorization. LILCO and LIPA submitted a joint request to transfer the SNPS license from LILCO to LIPA in their letter of June 28, 1990. They supplemented this request in letters dated June 13, June 27, October 31, and December 5, 1991.

III

In CLI–92–04 (dated February 26, 1992), the Commission determined that Facility Operating License No. NPF–82 may be transferred from LILCO to LIPA and made immediately effective based on the following conditions: (1) The license would revert to LILCO if LIPA ceases to exist or is otherwise found to be unqualified to hold the license, and (2) LILCO provides certification to the NRC that it will retain and maintain adequate capability and qualification to take over the license promptly in the event that either LIPA ceases to exist or is otherwise found to be unqualified to hold the license.

IV

On February 27, 1992, LILCO submitted a letter in which it certified the following:

> LILCO will retain and maintain adequate capability and qualifications to take over the License promptly in the event that LIPA, following receipt of the License, ceases to exist or is otherwise found to be unqualified to hold the license. This also certifies that LILCO understands and accepts that in the event of either of these contingencies, the License would revert to LILCO.

LILCO's certification, as set forth in its letter of February 27, 1992, is acceptable on an interim basis. This Order approving transfer of the license has been conditioned to reflect that the Shoreham license will revert to LILCO if LIPA ceases to exist or is otherwise found to be unqualified to hold a license. Additional details are required, however, concerning the licensee's certification, specifically details concerning the establishment of contingency plans to be utilized in the event that the Shoreham License should revert to LILCO. A joint contingency plan, approved by both LILCO and LIPA officials, must be submitted and approved by the staff which describes measures to be taken to adequately ensure such matters as appropriate employee and contractor arrangements, maintenance of staff and management qualifications, indemnification coverage, and technical specifications applicability.

Therefore, the conditions of CLI–92–04 have been satisfied on an interim basis, and the transfer of Facility Operating License NPF–82 from LILCO to LIPA may be approved by this Order and made immediately effective subject to the conditions set forth herein. Further, the staff has determined the proposed transferee is qualified to be a holder of the license and the transfer of the license is otherwise consistent with applicable provisions of law, regulations and orders issued by the Commission.

V

Accordingly, pursuant to section 103, 161b, and 161i, of the Atomic Energy Act of 1954, as amended, 10 CFR 50.80, and the Commission's Memorandum and Order CLI–92–04, *It is Hereby Ordered, Effective Immediately*, that transfer of Facility Operating License No. NPF–82 from LILCO to LIPA is approved, and LIPA is authorized to undertake the activities and obligations of the Shoreham license in accordance with the Commission's Memorandum and Order CLI–92–04, subject to the following: (1) The license will revert to LILCO in the event LIPA ceases to exist or is otherwise found to be unqualified to hold the license; (2) LILCO will maintain adequate capability and qualifications to take over the plant in such event; (3a) a joint LIPA/LILCO contingency plan as described above shall be submitted to the Director, Office of Nuclear Reactor Regulation by March 30, 1992; (3b) unless such plan is approved by the Director, Office of Nuclear Reactor Regulation by April 30, 1992, or other date to be determined by the Director, Office of Nuclear Reactor Regulation, the Shoreham license will revert to LILCO; and (4) until otherwise authorized by the Director, Office of Nuclear Reactor Regulation, the facility Technical Specifications currently in effect shall be followed by LIPA.

Dated at Rockville, Maryland this 29th day of February, 1992.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 92–5246 Filed 3–5–92; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collective title:* Annual Earnings Monitoring.

(2) *Form(s) submitted:* G–19(I), (II), (III), (IV) and (V).

(3) *OMB Number:* 3220–0073.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Frequency of response:* On occasion and annually.

(7) *Respondents:* Individuals or households, Businesses or other for-profit.

(8) *Estimated annual number of respondents:* 3,000.

(9) *Total annual responses:* 3,000.

(10) *Average time per response:* .05 hours.

(11) *Total annual reporting hours:* 150.

(12) *Collection description:* The report obtains the information about an annuitant's employment and earnings. Under the RRA, an annuity can be reduced or not paid, depending on the amount of earnings and type of work performed.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312–751–4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Laura Oliven (202–395–7316), Office of

Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 92-5185 Filed 3-5-92; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-30424; File No. SR-OCC-92-06)

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval on a Temporary Basis of a Proposed Rule Change Relating to Revisions to the Standard Form of Letter of Credit

February 28, 1992.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 6, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. February 18, 1992, OCC filed Amendment No. 1 to the proposal.[2] The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval on a temporary basis through May 31, 1992.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change extends the Commission's previous temporary approval of OCC's modifications to its rules respecting letters of credit as a form of margin.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On August 16, 1991, OCC filed with the Commission a proposed rule change (SR-OCC-91-13), which proposed to modify the standards for letters of credit used as a form of margin. On August 21, 1991, and on August 30, 1991, OCC filed Amendment No. 1 and Amendment No. 2, respectively, to the proposed rule change. On August 30, 1991, the Commission issued an order granting accelerated approval of the proposed rule change on a temporary basis through February 28, 1992.[3]

That order temporarily approved several modifications to OCC's rules governing the terms of letters of credit deposited as margin with OCC. First, in order to conform to the Uniform Commercial Code and to avoid any ambiguity as to the latest time for honoring demands upon letters of credit, letters of credit must state expressly that payment must be made prior to the close of business on the third banking day following demand. Second, letters of credit must be irrevocable. Third, letters of credit must expire on a quarterly basis. Fourth, OCC included language in its rules to make explicit its authority to draw upon letters of credit at any time, whether or not the Clearing Member that deposited the letter of credit has been suspended or is in default if OCC determines that such draws are advisable to protect OCC, other Clearing Members, or the general public.[4]

Accelerated approval was granted in order to permit OCC to implement the new standards for letters of credit used as margin prior to the expiration and renewal, on September 1, 1991, of letters of credit issued under the prior standards. Temporary approval through February 28, 1992, was granted in order to permit OCC, the Commission, and other interested parties to assess, prior to permanent Commission approval of such standards, any effects these revised standards might have on letter of credit issuance and on margin deposits at OCC. In the interim, OCC has received no complaints from any of its Clearing Members, banks issuing such letters of credit, or any other interested parties with respect to the implementation of the revised letter of credit standards.

OCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act. Specifically, OCC believes the proposed rule change promotes the protection of investors by enhancing OCC's ability to safeguard the securities and funds in its possession or subject to its control.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were not and are not intended to be solicited with respect to the proposed rule change, and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission believes that the proposal is consistent with section 17A of the Act and specifically with section 17A(b)(3)(F) of the Act.[5] That section requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which the clearing agency is responsible. The revised standards should make such letters of credit more liquid instruments and, consequently, should permit OCC to more safely rely upon letters of credit as deposited margin. Because the revised standards will induce letter of credit issuers to reexamine Clearing Members' financial conditions every three months rather than annually, as under the prior standards, the financial condition of Clearing Members electing to deposit letters of credit as margin may be assessed more frequently thereby facilitating the discovery of any adverse developments in a more timely manner. In addition, since the letters of credit will be irrevocable, issuers of letters of credit will no longer be able to revoke letters of credit at times when the Clearing Members most need credit facilities (*e.g.*, when a Clearing Member is experiencing financial difficulties or

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] As originally filed, the language of OCC Rule 604(c), the subject of this rule filing, did not reflect certain changes that had been approved recently by the Commission. Amendment No. 1 amended the filing so that it accurately reflects the current status of OCC's Rule 604(c).

[3] Securities Exchange Act Release No. 29641 (August 30, 1991), 56 FR 46027.

[4] For a detailed discussion of the modifications to OCC's rules governing letters of credit deposited as margin, refer to Securities Exchange Act Release No. 29641, *supra* note 3.

[5] 15 U.S.C. 78q-1(b)(3)(F) (1988).

during times of market volatility). By approving the proposed rule change on a temporary basis through May 31, 1992, OCC, the Commission, and other interested parties will be able to assess further, prior to permanent Commission approval, any effects these revised standards have on letter of credit issuance and on margin deposited at OCC.

OCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving because the Commission believes it desirable that the proposed rule change be approved before the expiration of the Commission's previous order that temporarily approved these changes to the standard form of letter of credit. By approving before expiration of the prior temporary approval order, the changes that have been implemented pursuant to the temporary approval order may remain in place pending permanent approval.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File Number SR–OCC–92–06 and should be submitted by March 27, 1992.

V. Conclusion

On the basis of the foregoing, the Commission finds that OCC's proposed rule change is consistent with the Act and in particular with section 17A of the Act.

It is therefore ordered, under section 19(b)(2) of the Act, that the proposal (File No. SR–OCC–92–06) be, and hereby is, approved temporarily through May 31, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–5242 Filed 3–5–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18580; 812–7851]

Application for Exemption; C.M. Life Insurance Company, et al.

February 28, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or the "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: C.M. Life Insurance Company ("C.M. Life"); Panorama Plus Separate Account ("Account"); and G.R. Phelps & Co., Inc. ("Phelps").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from sections 26(a)(2) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the assessment of a daily charge for mortality and expense risks against the assets of the Account.

FILING DATE: The application was filed on January 16, 1992 and an amended and restated application was filed on February 21, 1992.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on March 24, 1992. Request a hearing in writing, giving the nature of your interest, the reason for the request and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for attorneys, by certificate. Request notifications of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants: Everett E. Clark, Esq., C.M. Life Insurance Company, 140 Garden Street, Hartford, Connecticut 06154.

FOR FURTHER INFORMATION CONTACT: Barbara J. Whisler, Attorney, on (202) 272–5415, or Wendell Faria, Deputy Chief, on (202) 272–2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. C.M. Life is a life insurance company chartered under Connecticut law in 1980. C.M. Life is a wholly-owned subsidiary of Connecticut Mutual Life Insurance Company.

2. The Account was established by C.M. Life as a separate account under Connecticut law on September 25, 1991, as a funding medium for certain flexible premium deferred annuity contracts (the "Contracts"). The Account is registered with the Commission under the 1940 Act as a unit investment trust. The application incorporates by reference the registration statement for the Account. Phelps will serve as the distributor and principal underwriter of the Contracts. Phelps is a wholly-owned subsidiary of DHC, Inc., which is a wholly-owned subsidiary of Connecticut Mutual Life Insurance Company.

3. The Account will invest in shares of the Connecticut Mutual Financial Services Series Fund I, Inc. (the "Fund"). The Account currently has six sub-accounts each of which invests solely in a specific corresponding portfolio of the Fund. The Fund is registered under the 1940 Act as an open-end, diversified management investment company of the series type.

4. The Contracts require a minimum initial purchase payment of at least $500. Subsequent purchase payments must be at least $100. The Contract owner may allocate payments to one or more sub-accounts of the Account or to C.M. Life's general account. The Contract owner also may allocate payments to a combination of the sub-accounts and the general account. The Contract balance is the sum of the Account balance and the general account balance.

5. The Contracts provide for a series of annuity payments beginning on the annuity income date. The Contract owner may select from six annuity payment options. The Contract owner may choose periodic fixed and/or variable payments under any one of the annuity options contained in the Contracts. The Contracts also contain death benefit options. If the annuitant or the Contract owner dies prior to the annuity income date, a death benefit is calculated and is payable upon receipt of proof of death, including proof that

the death occurred prior to the annuity income date, as well as an election of the death benefit option and return of the Contract. Payment under a death benefit option shall be based on the Contract balance at the time of payment. No contingent deferred sales charge or Contract maintenance fee shall apply with respect to any death benefit option.

6. C.M. Life will deduct an annual Contract maintenance fee. This fee is currently $30 per year and is guaranteed not to exceed $60 a year. The fee will be deducted from the Contract balance on the last day of each Contract year during the accumulation period and upon a full surrender of the Contract to compensate C.M. Life for the administrative services provided to Contract owners. C.M. Life also deducts a daily administrative expense charge from the assets of each sub-account of the Account currently at the rate of 0.07% of the average net assets of the Account. C.M. Life does not anticipate any profit from these charges. C.M. Life will deduct the administrative charges in reliance upon and in compliance with Rule 26a–1 under the 1940 Act.

7. C.M. Life may incur premium taxes relating to the Contracts. C.M. Life will deduct any premium taxes related to a particular Contract from premiums, upon surrender or annuitization.

8. C.M. Life imposes a contingent deferred sales charge of up to 5% of the amount withdrawn on certain partial surrenders or full surrenders of the Contract balance during the first five Contract years. C.M. Life guarantees that the aggregate sales charges applicable to the Contract balance will not exceed 8.5% of the total purchase payments. Beginning with the second Contract year a free surrender amount equal to 10% of the Contract balance as of the end of the immediately preceding Contract year will be exempt from any contingent deferred sales charge. No contingent deferred sales charge is imposed on partial or full surrenders during the last thirty days of each five year period.

9. C.M. Life imposes a charge to compensate it for bearing certain mortality and expense risks under the Contracts. This charge is currently equal to an annual rate of 1.10% of the value of the net assets in the Account. Of that amount, approximately 0.15% is attributable to mortality risk and approximately 0.95% is attributable to expense risks. C.M. Life guarantees that this charge will never exceed 1.25%. If the mortality and expense risk charge is insufficient to cover actual costs and assumed risks, the loss will fall on C.M. Life. Conversely, if the charge is more than sufficient to cover costs, any excess will be profit to C.M. Life. C.M. Life currently anticipates a profit from this charge.

10. C.M. Life guarantees that the aggregate of the mortality and expense risk charge and the daily administrative expense charge will not exceed 1.50% annually. If the mortality and expense risk charge were to be eliminated, the daily administrative expense charge could be increased to a maximum of 1.50% annually (assuming the charge to be "cost based" in accordance with Rule 26a-1 of the 1940 Act); however, if the daily administrative expense charge were to be eliminated, then the mortality and expense risk charge could not exceed the maximum of 1.25% annually.

11. The mortality risk borne by C.M. Life arises from its contractual obligation to make monthly annuity payments (determined in accordance with the annuity tables and other provisions contained in the Contract) regardless of how long annuitants or an individual annuitant may live. This undertaking assures that neither an annuitant's longevity nor an improvement in general life expectancy, will adversely affect the monthly annuity payments that the annuitant will receive under the Contract. C.M. Life also incurs a risk in connection with the payment of death benefits. Payments under a death benefit option are based on the Contract balance at the time of payment. No contingent deferred sales charge is imposed upon amounts received as a death benefit by Contract owners. The expense risk assumed by C.M. Life is the risk that C.M. Life's actual administration costs will exceed the amount recovered through the Contract maintenance fee and administrative expense charge.

12. C.M. Life does not anticipate that the contingent deferred sales charges will generate sufficient funds to pay the cost of distributing the Contracts. If these charges are insufficient to cover the expenses of distribution, the deficiency will be met from C.M. Life's general account funds, which may include amounts derived from the charge for mortality and expense risks.

13. Applicants request that the Commission, pursuant to section 6(c) of the 1940 Act, grant the exemptions from sections 26(a)(2) and 27(c)(2) in connection with Applicants' assessment of the daily charge for mortality and expense risks. Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

14. Applicants argue that the mortality and expense risk charge is a reasonable charge to compensate C.M. Life for guaranteeing certain risks in the Contracts: The risk that annuitants under the Contracts will live longer as a group than has been anticipated in setting the annuity rates guaranteed in the Contracts; the risk created by the inapplicability of a contingent deferred sales charge to amounts received as a death benefit; and the risk that administrative expenses will be greater than amounts derived from the administrative charges.

15. C.M. Life represents that the mortality and expense risk charge, not to exceed 1.25%, is within the range of industry practice with respect to comparable annuity products. This representation is based upon C.M. Life's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees, and guaranteed annuity rates. C.M. Life will maintain at its administrative offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

16. Applicants acknowledge that the proceeds from the contingent deferred sales charges may be insufficient to cover all costs relating to the distribution of the Contracts. Applicants also acknowledge that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be viewed by the Commission as being offset by distribution expenses not reimbursed by the sales charges. C.M. Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Account and the Contract Owners. The basis for such conclusion is set forth in a memorandum which will be maintained by C.M. Life at its administrative offices and will be available to the Commission.

17. C.M. Life also represents that the Account will only invest in management investment companies which undertake, in the event such company adopts a plan under Rule 12b-1 of the 1940 Act to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not interested persons of the company, formulate and approve any such plan under Rule 12b-1.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-5244 Filed 3-5-92; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-10615]

Issuer Delisting; Application To Withdraw From Listing and Registration; (Emisphere Technologies, Inc., Common Shares, $0.01 Par Value)

March 2, 1992.

Emisphere Technologies, Inc. ("Company") has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Boston Stock Exchange, Inc. ("BSE" or "Exchange").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In making the decision to voluntarily withdraw its Stock from listing on the BSE, a decision made by the management of the Company and approved by its Board of Directors, the company believes that its stock would be more actively traded by listing with another organization.

Any interested person may, on or before March 23, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-5192 Filed 3-5-92; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-9396]

Issuer Delisting; Application To Withdraw From Listing and Registration; (Fidelity National Financial, Inc., Common Stock, $.0001 Par Value)

March 2, 1992.

Fidelity National Financial, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In addition to being listed on the Amex, the Company's common stock is listed on the New York Stock Exchange, Inc. ("NYSE"). The Company's stock commenced trading on the NYSE at the opening of business on March 2, 1992 and concurrently therewith such stock was suspended from trading on the Amex.

In making the decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common stock on the NYSE and on the Amex. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before March 23, 1992 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92-5193 Filed 3-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25479]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

February 28, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by March 23, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Valley Resources, Inc. (70-7897)

Valley Resources, Inc. ("Valley"), 1595 Mendon Road, Cumberland, Rhode Island 02864, a Rhode Island public-utility holding company exempt from registration under section 3(a)(1) of the Act pursuant to rule 2, has filed an application under sections 9(a)(2) and 10 of the Act. Valley proposes to acquire all of the issued and outstanding shares of common stock of Bristol and Warren Gas Company ("Bristol"), a Rhode Island public-utility company.

Valley Gas Company ("Valley Gas"), Valley's public-utility subsidiary company, provides natural gas and transportation services to approximately 53,000 customers in northeastern Rhode Island.

Bristol provides natural gas and transportation services to approximately 6,500 customers in the towns of Bristol and Warren in southeastern Rhode Island.

As of August 31, 1991 Bristol reported total assets of $444,600. At that date, Bristol had issued and outstanding 10,000 shares of common stock ("Bristol Common Stock").

Pursuant to a Stock Purchase Agreement dated October 29, 1991 among Valley and the five shareholders of Bristol, Valley will acquire all of the Bristol Common Stock for a total consideration of $2,723,100 in the form of notes. Following the acquisition, Bristol will be a wholly owned subsidiary of Valley.

Consolidated Natural Gas Company 70–7922

Consolidated Natural Gas Company ("Consolidated"), CNG Tower, Pittsburgh, Pennsylvania 15222–3199, a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act.

According to the terms of the employee savings programs of Consolidated and its subsidiary companies other than Virginia Natural Gas, Inc. ("VNG"), ("Thrift Plans") and of the employee savings plans offered by VNG ("Savings Plans"), shares of Consolidated's common stock ("Common Stock") may be purchased by the trustees ("Trustees") administrating the Thrift Plans and the Savings Plans (collectively, "Plans") directly from Consolidated or on the open market. If the Common Stock is acquired directly from Consolidated, the price of such shares is equal to the mean of the high and low transaction prices of the Common Stock on the New York Stock Exchange on the date of acquisition. Common Stock purchased is registered in the name of the Trustees and allocated to appropriate Plan participant accounts. The Trustees are currently acquiring approximately 70,000 shares of Common Stock per month for the Plans.

Consolidated proposes to issue and sell, through December 31, 2001, up to a maximum of ten million shares of Common Stock to the Trustees of the Plans for purposes of the Plans.

Entergy Corporation (70–7938)

Entergy Corporation ("Entergy"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed an application-declaration under Sections 6(a), 7, 9(a), 10 and 12(e) of the Act and rules 42, 50(a)(5), 62 and 65 thereunder.

Entergy proposes to solicit proxies and obtain a vote of its shareholders in connection with a proposed amendment to its Restated Articles of Incorporation ("Charter"). The amendment would respond to a change in Florida law. As revised, Florida law mandates that, unless otherwise provided in a corporation's charter, reacquired shares of a corporation's common stock are restored to the status of authorized but unissued shares of such class. Since Entergy's Charter does not currently address the subject of treasury shares under revised Florida law, shares of Common Stock acquired by Entergy are returned to the status of authorized but unissued shares and cannot be held as treasury shares for later reissuance.

Entergy also proposes to acquire and reissue as treasury shares from time-to-time through December 31, 1994, up to 3 million shares of its common stock, $5 par value ("Common Stock"), to meet the requirements of Entergy system stock benefit plans. Entergy requests an exception from the competitive bidding requirements of rule 50 pursuant to subsection (a)(5) thereof for the reissuance of the Common Stock.

The proposed amendments to the Charter ("Proposal") will be submitted for consideration and approval by Entergy shareholders at its annual meeting to be held on May 15, 1992. The adoption of the Proposal will require the affirmative vote, in person or by proxy, of the holders of at least ⅔ of the outstanding shares of Entergy's common stock and the presence, in person or by proxy, at the Annual Meeting of the holders of at least a majority of the outstanding shares of Entergy's common stock. Entergy proposes to solicit proxies from its stockholders for use at the Annual Meeting with respect to the approval of the Proposal and has requested an order pursuant to rule 62(d) under the Act to engage in such solicitation. In addition to using Entergy personnel and personnel of Entergy's wholly owned nonutility subsidiary, Entergy Service, Inc., Entergy proposes to use Morrow & Co., Inc., a proxy solicitation firm, to assist in the solicitation of proxies for the Annual Meeting.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–5243 Filed 3–5–92; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended February 28, 1992

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: 48003.
Date filed: February 24, 1992.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 541 (GIT fares from Europe to Japan/Korea).
Proposed Effective Date: April 1, 1992.

Docket Number: 48010.
Date filed: February 26, 1992.
Parties: Members of the International Air Transport Association.
Subject: TC23 Reso/P 0492 dated January 28, 1992. Europe-Japan/Korea Resos, R–1 To R–38, TC23 Reso/P 0499 dated February 13, 1992, Europe-Japan/Korea Reso 003z.
Proposed Effective Date: April 1, 1992.

Docket Number: 48015.
Date filed: February 28, 1992
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 544 (Algeria airport tax increase).
Proposed Effective Date: March 15, 1992.

Docket Number: 48016.
Date filed: February 28, 1992.
Parties: Members of the International Air Transport Association
Subject: Mail Vote 542 (Establish all fares from Angola in US Dollars). Mail Vote 543 (Establish all rates from Angola in US Dollars).
Proposed Effective Date: April 1, 1992.

Docket Number: 48017.
Date filed: February 28, 1992.
Parties: Members of the International Air Transport Association
Subject: Mail Vote 537 (Italy international embarkation tax increase).
Proposed Effective Date: May 1, 1992.

Docket Number: 48018.
Date filed: February 28, 1992.
Parties: Members of the International Air Transport Association.
Subject: Mail Vote 546 (Special Creative Fares within Europe).
Proposed Effective Date: April 1, 1992.

Docket Number: 48019.
Date filed: February 28, 1992.
Parties: Members of the International Air Transport Association.
Subject: TC12 MV/P 0335 dated February 7, 1992. Mail Vote 540 (Readopt & Revalidate USA-Europe fares).
Proposed Effective Date: April 1, 1992.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92–5288 Filed 3–5–92; 8:45 am]

BILLING CODE 4910–62–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended February 28, 1992

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48002.
Date filed: February 24, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 23, 1992.
Description: Application of Continental Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for renewal of the San Antonio, Texas-Mexico City authority in its certificate for Route 529 for a period of five years.

Docket Number: 48007.
Date filed: February 25, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 24, 1992.
Description: Application of Ryan International Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations requests authority to conduct interstate and overseas scheduled air transportation of persons, property and mail.

Docket Number: 48008.
Date filed: February 26, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 25, 1992.
Description: Application of United Air Lines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations requests a certificate of public convenience and necessity to authorize service between a point or points in the United States and a point or points in Colombia.

Docket Number: 48013.
Date filed: February 27, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 26, 1992.
Description: Application of Cathay Pacific Airways Limited, pursuant to section 402 of the Act and subpart Q of the Regulations applies for an amendment to its foreign air carrier permit to authorize all-cargo operations on United Kingdom Route 13 of the Air Services Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland ("Bermuda 2"): Guam/Honolulu/Los Angeles/San Francisco/Seattle-Hong Kong.

Docket Number: 46564.
Date filed: February 25, 1992.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: March 24, 1992.
Description: Application of Ryan International Airlines, Inc., pursuant to section 401 of the Act, and subpart Q of the Regulations requests an amendment to remove conditions in its section 418 and section 401 charter certificates to permit Ryan to conduct charter air transportation of passengers, property and mail without limitation.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 92–5289 Filed 3–5–92; 8:45 am]
BILLING CODE 4910–62–M

Office of the Secretary

Fitness Determination of Arizona Airways, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 92–3–1, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find Arizona Airways, Inc., fit, willing, and able to provide commuter air service under section 419(e) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P–56, room 6401, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order.

Responses shall be filed no later than March 17, 1992.

FOR FURTHER INFORMATION CONTACT: Ms. Delores King, Air Carrier Fitness Division (P–56, room 6401), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366–2343.

Dated: March 2, 1992.
Patrick V. Murphy,
Deputy Assistant Secretary for Policy and International Affairs.
[FR Doc. 92–5290 Filed 3–5–92; 8:45 am]
BILLING CODE 4910–62–M

Applications of Patriot Airlines, Inc. for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause (order 92–3–6) Docket 47912.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Patriot Airlines, Inc., fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in interstate and overseas charter air transportation of property and mail.

DATES: Persons wishing to file objections should do so no later than March 13, 1992.

ADDRESSES: Objections and answers to objections should be filed in Docket 47912 and addressed to the Documentary Services Division (C–55, room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC. 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Woods, Air Carrier Fitness Division (P–56, room 6401), U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, DC 20590, (202) 366–2340.

Dated: March 3, 1992.
Patrick V. Murphy, Jr.,
Deputy Assistant Secretary for Policy and International Affairs.
[FR Doc. 92–5291 Filed 3–5–92; 8:45 am]
BILLING CODE 4910–62–M

Coast Guard

[CGD8 90–02]

Houston/Galveston Navigation Safety Advisory Committee; Solicitation for Membership

SUMMARY: The U.S. Coast Guard is seeking applications for appointment to membership on the Houston/Galveston Navigation Safety Advisory Committee. Present appointments will expire October 1, 1992.

The Committee shall consist of eighteen members, who have particular expertise, knowledge, and experience regarding the transportation, equipment,

and techniques that are used to ship cargo and to navigate vessels in the inshore and the offshore waters of the Gulf of Mexico:

(1) Two members who are employed by the Port of Houston Authority or have been selected by that entity to represent them.

(2) Two members who are employed by the Port of Galveston or the Texas City Port Complex or have been selected by those entities to represent them.

(3) Two members from organizations that represent shipowners, stevedores, shipyards, or shipping organizations domiciled in the State of Texas.

(4) Two members representing organizations that operate tugs or barges that utilize the port facilities at Galveston, Houston, and Texas City Port Complex.

(5) Two members representing shipping companies that transport cargo from the Ports of Galveston and Houston on liners, break bulk, or tramp steamer vessels.

(6) Two members representing those who pilot or command vessels that utilize the Ports of Galveston and Houston.

(7) Two at-large members who may represent a particular interest group but who utilize the port facilities at Galveston, Houston, and Texas City.

(8) One member representing labor organizations which load and unload cargo at the Ports of Galveston and Houston.

(9) One member representing licensed merchant mariners other than pilots, who perform shipboard duties on vessels which utilize the port facilities of Galveston and Houston.

(10) One member representing environmental interests.

(11) One member representing the general public.

To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women.

The purpose of the committee is to provide local expertise on such matters as communications, surveillance, traffic control, anchorages, aids to navigation, and other related topics dealing with navigation safety in the Houston/Galveston area as required by the Coast Guard. The committee normally meets three times a year at various locations in the Houston/Galveston area. Members serve voluntarily, without compensation from the Federal Government for salary, travel, or per diem. Term of membership will not exceed the expiration of the charter, October 1, 1994.

DATES: Requests for applications should be received no later than April 15, 1992. Completed applications should be returned no later than May 15, 1992.

ADDRESSES: Persons interested in applying should write to Commander, Eighth Coast Guard District (oan), Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396.

FOR FURTHER INFORMATION CONTACT: Mr. Monty Ledet, USCG, Recording Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander Eighth Coast Guard (oan) room 1209, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone number (504) 589-4686.

Dated: February 25, 1992.

J.M. Loy,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 92–5249 Filed 3–5–92; 8:45 am]

BILLING CODE 4910–14–M

Federal Highway Administration

National Motor Carrier Advisory Committee; Charter Renewal

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of charter renewal.

SUMMARY: The charter for the National Motor carrier Advisory Committee (NMCAC) has been renewed for the period of time from 1992 through 1994, effective on January 29, 1992. The Committee acts in an advisory capacity to the FHWA Administrator. It makes recommendation intended to improve the safety and productivity of the motor carrier industry and the effectiveness of the FHWA's programs and policies. The Committee reviews research projects, regulations and programs including commercial motor vehicle licensing and taxation, uniformity and safety. Meetings of the Committee are open to the public and must be announced in the **Federal Register**. Copies of the Committee charter are available upon request.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas J. McKelvey, HIA–20, room 3104, 400 Seventh Street SW., Washington, DC 20590, (202)366–1861. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except for legal Federal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: February 26, 1992.

T.D. Larson,

Administrator.

[FR Doc. 92–5197 Filed 3–5–92; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement: Salt Lake County, UT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Salt Lake County, Utah.

FOR FURTHER INFORMATION CONTACT: Bill Gedris, Environmental Coordinator, Federal Highway Administration, 2520 West 4700 South, suite 9A, Salt Lake City, Utah 84118, Telephone: (801) 524–5141; Larry Kirby, Special Projects Engineer, Utah Department of Transportation, District Two, 2060 South 2400 West, Salt Lake City, Utah 84104, Telephone: (801) 975–8426; or George Ramjoue, Development Planning Manager, Wasatch Front Regional Council, 420 West 1500 South, suite 100, Bountiful, Utah 84010, Telephone: (801) 292–4469.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Utah Department of Transportation (UDOT), the Wasatch Front Regional Council (WFRC), Salt Lake City, West Valley City, West Jordan, and Salt Lake County, will prepare an EIS on a proposal to develop the planned 5600 West Highway facility of approximately 12 miles in length from I–80 to the Old Bingham Highway (about 9600 South) in Salt Lake County, Utah. The proposed facility would provide increased traffic capacity for the west side of the Salt Lake City metropolitan area.

The alternatives to be considered for the 5600 West Highway facility include: (1) No action alternative; and (2) constructing the section on one of several alternative alignments. Incorporated into and analyzed with the various build alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A series of informational public meetings will be held as necessary during the project development process. A formal scoping meeting and an official public hearing will also be held. Public notice of the time and place of the meetings and hearing will be given. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA, UDOT or the WFRC at the addresses provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on federal programs and activities apply to this program).

Issued on: February 24, 1992.

Donald P. Steinke,

Division Administrator, Salt Lake City, Utah.

[FR Doc. 92-5180 Filed 3-5-92; 8:45 am]

BILLING CODE 4910-22-M

Intermodal Surface Transportation Efficiency Act of 1991 Amendments to 23 U.S.C. 131, Control of Outdoor Advertising

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: On December 18, 1991, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102-240, 105 Stat. 1914, was signed into law. Section 1046 of the ISTEA amended 23 U.S.C. 131 which deals with outdoor advertising control. This notice describes the impact of section 1046 on how States can provide for effective control of outdoor advertising in accord with regulations previously issued by the Federal Highway Administration (FHWA) in 23 CFR 750.705. This document is being issued to advise States that the ISTEA may require them to consider changes in their laws and administrative practices in order to remain eligible for full Federal-aid funding. The ISTEA itself provides no lead time for the States to come into compliance with these new provisions. A discussion of initiatives that will be considered in evaluating how "effective control" is maintained under the new requirements is a part of this notice.

Under section 1046, 23 U.S.C. 131 will continue to apply to the Interstate System and the Federal-aid primary system as they existed on June 1, 1991, and, when designated, all portions of the approved National Highway System. The three major amendments made to 23 U.S.C. 131 by section 1046 of ISTEA are: (1) An amendment prohibiting the erection of most new signs adjacent to an Interstate or Federal-aid primary designated a Scenic Byway under a State Program; (2) a specific requirement that illegal signs be removed; and (3) a provision authorizing for the first time the use of Federal-aid highway funding to purchase signs that do not conform to outdoor advertising controls.

DATES: The ISTEA was signed into law on December 18, 1991, with the provision of new sections 131(s) and 131(r)(1) of title 23, U.S.C., effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. Marlin E. Meese, Chief, Special Programs and Evaluation Branch, Office of Right-of-Way, HRW-12, (202) 366-2017; or Mr. Robert Black, Attorney, Office of Chief Counsel, HCC-31, (202) 366-1359, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Section 131 is the implementing authority within title 23, U.S.C., for the Highway Beautification Act of 1965, as amended. The basic principles of outdoor advertising control are in section 131. The original Act provided specific controls on the erection and maintenance of outdoor advertising signs and devices along the Interstate and Federal-aid primary highway systems. The Interstate and primary highway systems comprise only 306,000 miles of the 3.9 million miles of public roads and streets in the United States. Therefore, the outdoor advertising controls apply to less than 8 percent of the total national public road mileage. Statutory controls in section 131(c) limit signs which a State can permit to directional and official signs, sale or lease signs, on-premise signs, landmark signs, and free coffee signs. In addition, under section 131(d), States can permit signs in zoned or unzoned commercial or industrial areas adjacent to the controlled systems. Section 131(d) provides for an agreement between each State and the Secretary of Transportation regarding size, lighting, and spacing standards of signs in commercial and industrial areas.

Scenic Byway Prohibition

The ISTEA in section 1046(c) amended title 23, U.S.C., by adding section 131(s). The new section limits the erection of new advertising displays to those permitted under section 131(c) along road segments that are designated Scenic Byways which are on the Interstate System, the Federal-aid primary system (as it existed on June 1, 1991), or on the National Highway System, when designated. These routes, collectively, are referred to as the controlled systems for Highway Beautification Act purposes. Thus new signs which would have been permitted in commercial and industrial areas under section 131(d) are no longer permitted on scenic byway portions of the controlled system.

Based on the 1990 Scenic Byways Study (U.S. DOT/FHWA Publication No. PD-91-010, January 1991), all but 15 States have some form of scenic byways program. About 35,000 miles of roads had been designated as scenic as of December 1990, when the study was conducted. The study projected that only about 50,000 total miles would be designated. Of the total projected mileage, about 50 percent is located on the Interstate and Federal-aid primary systems. Almost all of the mileage already designated as scenic along a controlled highway system is on two lane roadways. Most scenic byways are two lane roadways in rural areas where commercial and industrial areas are fewer in number. Thus, while the scope of this new control is limited to only about 25,000 miles, it complements the actions already taken by the States in determining that these routes have particular scenic importance.

Removal of Illegal Signs

The ISTEA in section 1046(b) also added section 131(r) to title 23, U.S.C. This new section requires all owners of illegal signs to remove their illegal signs within 90 days. The section further states that in the event owners do not remove their illegal signs, the State, to exercise effective control, shall remove the signs. The section provides that States recover removal costs of unremoved illegal signs from the sign owner. This cost recovery provision is not part of "effective control" for purposes of the sanction provisions of the Highway Beautification Act (23 U.S.C. 131(b)).

The FHWA recognizes that most States have already caused the removal of a substantial number of the illegal signs within their boundaries. Some States, however, have significant numbers of illegal signs remaining. Based on State reports, a total of about 22,000 remaining illegal signs have been identified. The law gave sign owners only 90 days from the effective date of ISTEA on December 18, 1991, to remove their illegal signs. The short period given to the owners is an indication of the emphasis to be applied to remove illegal signs. In consideration of the period granted to the owners, and the specific

mandate to the States to conclude removals when the sign owner has not performed, the FHWA has set a goal of an additional 90 days through June 18, 1992, for the States to act on the removal of illegal signs as required by 23 U.S.C. 131(r)(2). The FHWA recognizes that State law or procedural impediments may have to be overcome before a State can fully comply with this objective. However, considering the short time frame stated in the legislation for the removal of illegal signs by the sign owners, and the specific tie of this action to effective control requirements, States must take immediate steps after March 18, 1992, to demonstrate reasonable progress in meeting the effective control responsibilities required by this amendment. Good faith efforts by a State, including efforts to seek legislative authority, to comply with the provisions quickly will be considered by the FHWA in deciding how to deal with a failure to achieve effective control. Cumbersome administrative or procedural requirements that do not provide for prompt removal of illegal signs are not consistent with the intent of this section.

Funding for Removal of Nonconforming Signs

A new funding source for outdoor advertising control was provided in section 1046(a) of the ISTEA. By amending 23 U.S.C. 131(m), highway trust funds apportioned under 23 U.S.C. 104 are now available for the removal of nonconforming signs (i.e., lawfully erected signs which do not conform to the control requirements of section 131 or stricter State laws). In addition, in section 1007 of the ISTEA, control and removal of outdoor advertising is identified as one of several eligible "transportation enhancement activities" under the new Surface Transportation Program (STP). This major new program requires that at least 10 percent of apportioned funds for the program must be directed toward "transportation enhancement activities."

Initially, Federal funds for the control of outdoor advertising came from the General Fund. Now, funds made available from the Highway Trust Fund for highway projects may be used for outdoor advertising control. This will have a profound impact on the ability and responsibility of States to remove outdoor advertising signs. Under section 131(n), the States are not required to remove nonconforming signs unless Federal funds are available to participate in the acquisition costs associated with their removal. In the years immediately following the passage of the Highway Beautification Act, considerable sums were made available to inventory and remove nonconforming signs. However, funding was never sufficient to complete the acquisition process and no General Funds have been appropriated since 1983.

With this amendment made by the ISTEA, the States should have sufficient funds to remove nonconforming signs much more expeditiously. The change in the funding provided by the ISTEA, making available significant funds for the Federal share of just compensation payments and other control costs, will enable States to complete the removal of nonconforming signs in order to maintain effective control under Section 131(b). The timely removal of nonconforming outdoor advertising signs has always been part of "effective control." Failure to exercise effective control subjects a State to a 10 percent reduction of its Federal-aid highway apportionment, pursuant to 23 U.S.C. 131(b).

The FHWA estimates that about 92,000 nonconforming signs remain to be acquired. Most of these signs have been in place for over 20 years. Removal has been delayed, but now with increased Federal funding available to complete acquisition activities and ensure effective control, the law requires expedient removal.

The ISTEA authorizes $121 billion over the next six years for highway programs, including the STP which is a block grant program designed to fund a wide range of transportation related projects. For Fiscal Year (FY) 1992 alone, over $11 billion in Federal-aid under 23 U.S.C. 104 is being distributed to the States for highway construction and maintenance, and other transportation activities, including removal of outdoor advertising signs. The estimated total Federal share of the cost to acquire the remaining nonconforming signs is $428 million. This amount represents just 4 percent of the total eligible Federal-aid funds available to the States in FY 1992. Thus, the FHWA considered requiring States to remove all nonconforming signs along controlled highways in the first year ISTEA funding is available.

However, the FHWA recognizes that while the ISTEA represents a dramatic increase in Federal-aid funding, the non-Federal share must come from State or local sources. Moreover, the impact on individual States in providing for immediate removal would vary. For example, a State with an inventory of just a few hundred nonconforming signs would have a more manageable acquisition task than a State with over 2,000 such signs.

In addition, the FHWA recognizes that other problems might hamper the immediate removal of all remaining nonconforming signs. First, many States have been inactive regarding a sign acquisition program, and might need to update their administrative tools and sign acquisition procedures. Second, we do not believe that the Congress intended that the removal of signs take precedence over all other title 23 projects and programs.

For these reasons, we believe the ISTEA requires States to begin immediate removal of nonconforming signs, and to make reasonable progress in completing their removal program expeditiously. The FHWA, however, has set a two year goal for complete removal of remaining nonconforming signs. The FHWA believes that 2 years provides States with adequate time to remove all nonconforming signs without unduly constricting Federally-funded highway construction and other projects. States should be prepared to justify any reason for concluding that this period would impose an undue hardship on their priorities and programs.

During the next two years period, more than $24 billion Federal-aid dollars can be expected to be made available to the States for 23 U.S.C. 104 programs and projects. Considering the number of nonconforming signs remaining in the various States, most States could conclude their removal program using less than 2 percent of their 23 U.S.C. 104 funds within the two year period. Therefore, full acquisition and removal of the remaining nonconforming signs over the next two years would seem to be an achievable goal. By meeting this goal States will have removed all nonconforming signs on controlled Federal-aid highways by December 18, 1993.

The elements of removal programs will necessarily vary from State to State, and States should confer with the FHWA as to how best structure a removal program. In implementing removal programs, the States will have to review their existing priorities and formulate programs and processes that will maintain effective control. The States may wish to involve interested parties and affected entities such as other state and local agencies, sign owners, environmental groups and the business community, and establish priorities for sign removal.

This notice provides States and other interested parties a discussion of FHWA's goals and objectives to assure effective control is maintained to achieve the full implementation of the objectives expressed in the 1965

Highway Beautification Act, as amended, and to prevent interruption of Federal-aid funding. Each State should advise the FHWA by June 18, 1992, of its process, program, and timetable to ensure effective control is achieved and maintained. The FHWA intends to monitor and evaluate each State's progress in providing for the prompt removal of illegal and nonconforming signs on controlled systems.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: March 2, 1992.

T.D. Larson,

Administrator.

[FR Doc. 92–5287 Filed 3–5–92; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF VETERANS AFFAIRS

Cooperative Studies Evaluation Committee; Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) as amended by section 5(c) of Public Law 94–409 that a meeting of the Cooperative Studies Evaluation Committee will be held at the Ramada Renaissance Hotel, 999 9th Street NW., Washington, DC, on April 28, 1992. The session is scheduled to begin at 7:30 a.m. and end at 6 p.m. The meeting will be for the purpose of reviewing the progress of one on-going cooperative study in immunization in the prevention of infection, and three new clinical trials, one in the treatment of alcoholic cirrhosis, one in diabetes mellitus, and one in unstable angina.

The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on the relevance and feasibility of studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public up to the seating capacity of the room, from 7:30 a.m. to 8 a.m., to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. Ping Huang, Coordinator, Cooperative Studies Evaluation Committee, Department of Veterans Affairs, Washington, DC, (202–535–7154), prior to April 14, 1992.

The meeting will be closed from 8 a.m. to 6 p.m., for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Public Law 92–463, as amended by section 5(c) of Public Law 94–409, and 5 U.S.C. 552b(c)(6). During this portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research protocols, and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: February 26, 1992.

By Direction of the Secretary.

Diane H. Landis,

Committee Management Officer.

[FR Doc. 92–5217 Filed 3–5–92; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 45
Friday, March 6, 1992

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).

AFRICAN DEVELOPMENT FOUNDATION

Board of Directors Meeting

TIME: 2:30–4:30 p.m.

PLACE: African Development Foundation.

DATE: Monday, March 9, 1992.

STATUS: Portions Changed to Closed.

Closed Agenda

Review of Personnel Matters Internal to ADF.

If you have any questions or comments, please direct them to Ms. Janis McCollim, Executive Assistant to the President, who can be reached at (202) 673–3916.

Gregory Robeson Smith,

President.

[FR Doc. 92–5462 Filed 3–4–92; 3:30 pm]

BILLING CODE 6116–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 57 FR 6058 Wednesday, February 19, 1991.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (Eastern Time) Tuesday, March 3, 1992.

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 "L" Street, N.W., Washington, D.C. 20507.

CHANGE IN THE MEETING:

Closed Session

The Closed Session of the Commission Meeting scheduled for Tuesday, March 3, 1992, at 2:00 has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–7100.

Dated: March 3, 1992.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 92–5354 Filed 3–3–92; 4:57 p.m.]

BILLING CODE 6750–06–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, March 11, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 3, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–5367 Filed 3–4–92; 9:41 am]

BILLING CODE 6210–01–M

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 10:00 a.m., Monday, March 16, 1992.

PLACE: Eighth Floor, 1120 Vermont Avenue, NW., Washington, DC. 20419.

STATUS: The meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Internal personal rules and practices, matters the premature disclosure of which would likely frustrate implementation of a proposed agency activity, and *Special Counsel* v. *Byrd* and *Rebenstein, Walsh* v. *U.S. Postal Service and Mozqueda* v. *Department of Defense.*

CONTACT PERSON FOR ADDITIONAL INFORMATION CONTACT: Robert E. Tayler, Clerk of the Board, (202) 653–7200.

Dated: March 4, 1992.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 92–5416 Filed 3–4–92; 12:44 pm]

BILLING CODE 7400–01–M

NATIONAL SCIENCE BOARD

DATE AND TIME: March 20, 1992, 8:30 a.m., Closed Session
March 20, 1992, 9:00 a.m., Open Session

PLACE: National Science Foundation, 1800 G Street, NW, Rm. 540, Washington, DC 20550.

STATUS: Part of this meeting will be open to the public.

Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Friday, March 20, 1992

Closed Session (8:30 a.m.–9:00 a.m.)

1. Minutes—February 1992 Meeting.
2. Alan T. Waterman Award.
3. Grants and Contracts.

Friday, March 20, 1992

Open Session (9:00 a.m.–12:00 Noon)

4. Chairman's Report.
5. Minutes—February 1992 Meeting.
6. Director's Report.
7. Director's Annual Report on Merit Review.
8. NSF International Activities.
9. Other Business.

Thomas Ubois,

Executive Officer.

[FR Doc. 92–5418 Filed 3–4–92; 2:09 pm]

BILLING CODE 7555–01–M

POSTAL RATE COMMISSION

TIME AND DATE: 2:00 p.m., March 11, 1992.

PLACE: Conference Room, 1333 H Street, NW., Suite 300, Washington, DC 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Issues in Docket No. MC91–1.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC. 20268–0001, Telephone (202) 789–6840.

Charles L. Clapp,

Secretary.

[FR Doc. 92–5346 Filed 3–3–92; 4:45 pm]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [57 FR 7433 March 2, 1992].

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Thursday, February 27, 1992.

CHANGE IN THE MEETING: Time change.

An open meeting scheduled for Thursday, March 5, 1992, at 10:00 a.m., has been changed to 9:30 a.m.

Commissioner Roberts, as duty officer, determined that Commission business required the above change and

that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Walter Stahr at (202) 272–2000.

Dated: March 4, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–5466 Filed 3–4–92; 3:59 pm]

BILLING CODE 8010–01–M

federal register

Friday
March 6, 1992

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 101

Food Labeling: Nutrition Labeling; Guidelines for Voluntary Nutrition Labeling; and Identification of the 20 Most Frequently Consumed Raw Fruit, Vegetables, and Fish; Definition of Substantial Compliance; Corrections; Final Rule

21 CFR Part 101, et al.

Food Labeling; General Provisions; Nutrition Labeling; Nutrient Content Claims; Ingredient Labeling; State and Local Requirements; and Exemptions; Corrections; Proposed Rules

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 91N-0122]

RIN 0905-AB68

Food Labeling: Nutrition Labeling of Raw Fruit, Vegetables, and Fish; Guidelines for Voluntary Nutrition Labeling of Raw Fruit, Vegetables, and Fish; Identification of the 20 Most Frequently Consumed Raw Fruit, Vegetables, and Fish; Definition of Substantial Compliance; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of November 27, 1991 (56 FR 60880), that: (1) Identified the 20 most frequently consumed raw fruit, vegetables, and fish in the United States; (2) established guidelines for the voluntary nutrition labeling of these foods; and (3) defined "substantial compliance" with respect to the adherence by food retailers to those guidelines. The document was published with some editorial errors. This document corrects those errors.

EFFECTIVE DATE: November 8, 1991.

FOR FURTHER INFORMATION CONTACT: Jean A.T. Pennington, Center for Food Safety and Applied Nutrition (HFF-260), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1064.

SUPPLEMENTARY INFORMATION: In FR Doc. 91-27149 appearing on page 60880, in the **Federal Register** of Wednesday, November 27, 1991, certain inadvertent editorial errors were made in the appendices. For the convenience of the reader, FDA is republishing, with corrections, the charts that appeared in the appendices of that document. Accordingly, on pages 60888 through 60890, the following corrections to Appendix A and Appendix B are made:

1. On pages 60888, in Appendix A, in the bracketed heading, the word "accepted" is corrected to read "provided"; in the "Percent U.S. RDA" column, "(1)" is removed wherever it appears and asterisks are added in their place; in the "Carbohydrates" column, "Carbohydrates" is corrected to read "Carbohydrate"; and on page 60889, in the footnote, superscript "1" is removed and an asterisk is added in its place.

2. On page 60889, in Appendix B, in the heading, the word "accepted" is corrected to read "provided"; in the "Carbohydrates" column, "Carbohydrates" is corrected to read "Carbohydrate"; in the "Saturated Fatty Acid" column, "Fatty Acid" is corrected to read "Fat"; in the 1st column, the 1st entry is moved up as part of the heading to the 1st column, and superscript "2" is corrected to read superscript "1"; in the third entry, "Pollack" is corrected to read "Pollock"; in the 5th entry, in the "Protein (g)" column, "26" is corrected to read "29"; in the 5th, 9th, 15th, and 20th entries, in the "Carbohydrates (g)" column, "0" is corrected to read "2," "7," "4," and "1," respectively; in the 10th entry, in the "Kilocalories" column, "130" is corrected to read "70", and in the "Fat (g)" column, "7" is corrected to read "1"; in the footnote, superscript "1" is removed and an asterisk is added in its place; and a new footnote is added after the 1st footnote to read as follows: "(*) Assumed less than 2% U.S. RDA (no data available)."

3. On the same page, in Appendix B, in the "Percent U.S. RDA" column, in the subordinate "Vitamin A" column, the 1st–8th, 12th, 16th, 18th, and 20th entries; in the subordinate "Vitamin C" column, in the 4th and 11th entries; in the subordinate "Calcium" column, in the 2d, 3d, 6th, 11th, and 13th entries, and in the subordinate "Iron" column, in the 3d, 5th, and 10th entries, "(1)" is removed and replaced with asterisks (without parentheses); and in the subordinate "Vitamin A" column, in the 9th, 10th, 17th entries, in the subordinate "Vitamin C" column, in the 3d, 7th–10th, 12th–17th, 19th, and 20th entries, and in the subordinate "Calcium" column, in the 10th entry, "(1)" is removed and replaced with asterisks (with parentheses).

4. On page 60890, in the first column, in the 1st paragraph, in the 3d line, the parenthetical statement is corrected to read "(all values except kilocalories and fat for orange roughy and carbohydrate, vitamin A, vitamin C, calcium, and iron for all fish)"; and in the 2d paragraph, in the 5th line, the 2d parenthetical statement is corrected to read "(kilocalories and fat for orange roughy and carbohydrate, vitamin A, vitamin C, calcium, and iron for all fish)"; and in the 3d paragraph, "(1) = assumed less than 2 U.S. RDA (no data available)." is removed.

Appendices A and B are republished with the corrections set forth above to read as follows:

VII. Appendix A

NUTRITIONAL LABELING PROVIDED BY FDA FOR THE 20 MOST FREQUENTLY CONSUMED RAW FRUIT AND VEGETABLES (AUGUST (1991)

Fruit (edible portion weight)	Calories	Protein (g)	Carbohydrate (g)	Fat (g)	Dietary fiber (g)	Sodium (mg)	Percent U.S. RDA			
							Vitamin A	Vitamin C	Calcium	Iron
Banana, raw, 1 medium (126 g) (4.5 oz)	120	1	28	1	3	0	*	15	*	2
Apple, raw, 1 medium (154 g) (5.5 oz)	80	0	18	1	5	0	*	6	*	*
Watermelon, raw, 1/18 medium melon; 2 cups diced pieces (280 g) (10 oz)	80	1	19	0	1	10	8	25	*	2
Orange, raw, 1 medium (154 g) (5.5 oz)	50	1	13	0	6	0	*	120	4	*
Cantaloupe, raw, 1/4 medium melon (134 g) (5 oz)	50	1	11	0	0	35	80	90	2	2
Grape, raw, 1 1/2 cups (138 g) (5 oz)	85	1	24	0	2	3	3	9	2	2
Grapefruit, raw, 1/2 medium (154 g) (5.5 oz)	50	1	14	0	6	0	6	90	4	*
Strawberry, raw, 8 medium (147 g) (5.5 oz)	50	1	13	0	3	0	*	140	2	2
Peach, raw, 2 medium (174 g) (6 oz)	70	1	19	0	1	0	20	20	*	*
Pear, raw, 1 medium (166 g) (6 oz)	100	1	25	1	4	1	*	10	2	2
Nectarine, raw, 1 medium (140 g) (5 oz)	70	1	16	1	3	0	20	10	*	*
Honeydew melon, raw, 1/10 medium melon (134 g) (5 oz)	50	1	12	0	1	50	*	40	*	2
Plum, raw, 2 medium (132 g) (4.5 oz)	70	1	17	1	1	0	9	20	*	*
Avocado, raw, 1/3 medium (55 g) (2 oz)	120	1	3	12	2	5	*	5	*	*
Lemon, raw, 1 medium (58 g) (2 oz)	18	0	4	0	0	10	*	35	2	*
Pineapple, raw, 2 slices, 3" diameter, 3/4" thick (112 g) (4 oz)	90	1	21	1	2	10	*	35	*	*
Tangerine, raw, 2 medium 2 3/8" diameter (168 g) (6 oz)	70	1	19	0	2	1	30	85	2	*

NUTRITIONAL LABELING PROVIDED BY FDA FOR THE 20 MOST FREQUENTLY CONSUMED RAW FRUIT AND VEGETABLES (AUGUST (1991)—Continued

Fruit (edible portion weight)	Calories	Protein (g)	Carbohydrate (g)	Fat (g)	Dietary fiber (g)	Sodium (mg)	Percent U.S. RDA			
							Vitamin A	Vitamin C	Calcium	Iron
Sweet cherry, raw, 21 cherries; 1 cup (140 g) (5 oz)	90	1	19	1	3	0	*	10	2	*
Kiwi fruit, raw, 2 medium (148 g) (5.5 oz)	90	1	18	1	4	0	2	230	4	4
Lime, raw, 1 medium (67 g) (2.5 oz)	20	0	7	0	3	1	*	35	2	2
Potato, raw, 1 medium (148 g) (5.5 oz)	110	3	23	0	3	10	*	50	*	8
Iceberg lettuce, raw, ⅛ medium head (89 g) (3 oz)	20	1	4	0	1	10	2	4	*	*
Tomato, raw, 1 medium (148 g) (5.5 oz)	35	1	6	1	1	10	20	40	*	2
Onion, raw, 1 medium (148 g) (5.5 oz)	60	1	14	0	3	10	*	20	4	*
Carrot, raw, 7" long, 1¼" diameter (78 g) (3 oz)	40	1	8	1	1	40	330	8	2	*
Celery, raw, 2 medium stalks, (110 g) (4 oz)	20	1	4	0	2	140	*	15	4	*
Sweet corn, raw, kernels from 1 medium ear (90 g) (3 oz)	75	3	17	1	1	15	5	10	*	3
Broccoli, raw, 1 medium stalk (148 g) (5.5 oz)	40	5	4	1	5	75	10	240	6	4
Green cabbage, raw, ½ medium head (84 g) (3 oz)	18	1	3	0	2	30	*	70	4	*
Cucumber, raw ⅓ medium (99 g) (3.5 oz)	18	1	3	0	0	0	4	6	2	2
Bell pepper, raw, 1 medium (148 g) (5.5 oz)	25	1	5	1	2	0	2	130	*	*
Cauliflower, raw, ⅛ medium head (99 g) (3 oz)	18	2	3	0	2	45	*	110	2	2
Leaf lettuce, raw, 1.5 cup shredded (85 g) (3 oz)	12	1	1	0	1	40	20	4	4	*
Sweet potato, raw, 1 medium, 5" long, 2" diameter (130 g) (4.5 oz)	140	2	32	0	3	15	520	50	3	4
Mushroom, raw, 5 medium (84 g) (3 oz)	25	3	3	0	0	0	*	2	*	*
Green onion, raw, ¼ cup chopped (25 g) (1 oz)	7	0	1	0	0	0	3	20	*	5
Green (snap) bean, raw, ¾ cup cut (83 g) (3 oz)	14	1	2	0	3	0	2	8	4	*
Radish, raw, 7 radishes (85 g) (3 oz)	20	0	3	0	0	35	*	30	*	*
Summer squash, raw, ½ medium (98 g) (3.5 oz)	20	1	3	0	1	0	4	25	2	2
Asparagus, raw, 5 spears (93 g) (3.5 oz)	18	2	2	0	2	0	10	10	*	*

* Less than 2% U.S. RDA.

Notes

Data sources:

Produce Marketing Association (all data except as noted below).

USDA Revised Agriculture Handbook No. 8–9 (Fruits and Fruit Juices, 1982) and 8–11 (Vegetables and Vegetable Products, 1984) for grape, peach, pear, nectarine, plum, tangerine, lime, sweet corn, sweet potato, and green onion; dietary fiber for pineapple, tomato, and carrot; dietary fiber for grape and plum based on similar foods.

Dietary fiber for nectarine, tangerine, lime, and green onion from McCance and Widdowson's The Composition of Foods by A.A. Paul and D.A.T. Southgate, 4th revised ed., Elsevier/North-Holland Biomedical Press, NY, 1978 or Nutrient Content of Food Portions by J. Davies and J. Dickerson, The Royal Society of Chemistry, Cambridge, U.K., 1991.

Serving portion weights in oz from PMA were multiplied by 28 to obtain g weights; 55 g were used for 2 oz, and 85 g were used for 3 oz. Ounces were rounded to the nearest 0.5 oz for the chart. Serving portions weights in g from USDA were divided by 28 to obtain oz; oz were rounded to the nearest 0.5 oz.

Values were rounded in accordance with 21 CFR 101.9. Percent U.S. RDA was based on 5,000 IU for vitamin A, 60 milligrams (mg) for vitamin C, 1,000 mg for calcium, and 18 mg for iron.

Avocado data were derived from two data sets and are based on California varieties.

VIII. Appendix B

NUTRITION LABELING PROVIDED BY FDA FOR THE 20 MOST FREQUENTLY CONSUMED FISH (AUGUST 1991)

Fish, 3 oz edible portion, cooked [1]	Calories	Protein (g)	Carbohydrate (g)	Fat (g)	Saturated fat (g)	Cholesterol (mg)	Sodium (mg)	Percent U.S. RDA			
								Vitamin A	Vitamin C	Calcium	Iron
Shrimp, boiled	110	22	0	2	0	160	155	*	3	3	15
Cod, broiled, skinless	90	19	0	1	0	50	60	*	2	*	2
Pollock, broiled, skinless	100	21	0	1	0	80	90	*	(*)	*	*
Catfish, baked, skinless	120	19	0	5	1	60	65	*	*	3	5
Scallop, broiled, 5.7 large or 14 small	150	29	2	1	0	60	275	*	3	2	*
Salmon, Atlantic/ coho, baked, skinless	150	22	0	7	1	50	50	*	2	*	4
Flounder, baked, skinless	100	20	0	1	0	50	85	*	(*)	2	2
Sole, broiled, skinless	100	21	0	1	0	60	90	*	(*)	2	2
Oyster, steamed, 12 medium	120	12	7	4	1	90	190	(*)	(*)	8	65
Orange roughy, broiled, skinless	70	16	0	1	0	20	70	(*)	(*)	(*)	*
Mackerel, Atlantic/Pacific & jack, broiled, skinless	190	21	0	12	3	60	95	7	*	*	9
Ocean perch, baked, skinless	100	20	0	2	0	50	80	*	(*)	10	6
Rockfish, baked, skinless	100	20	0	2	0	40	65	4	(*)	*	3
Whiting, baked, skinless	100	19	0	1	0	70	75	2	(*)	5	2
Clam, steamed, 12 small	130	22	4	2	0	60	95	10	(*)	8	130
Haddock, baked, skinless	90	20	0	1	0	60	70	*	(*)	4	6
Blue crab, steamed	90	19	0	1	0	80	310	(*)	(*)	9	4
Rainbow trout, broiled, skinless	130	22	0	4	1	60	30	*	5	7	10
Halibut, broiled, skinless	120	22	0	2	0	30	60	3	(*)	5	5
Lobster, boiled	100	20	1	1	0	100	320	*	(*)	5	2

* Less than 2% U.S. RDA.
(*) Assumed less than 2% U.S. RDA (no data available).
[1] Cooked without fat or seasoning.

Notes

Data sources:

Seafood Nutri-Facts by the Food Marketing Institute and the National Fisheries Institute, 1988 (all values except kilocalories and fat for orange roughy and carbohydrate, vitamin A, vitamin C, calcium, and iron for all fish).

USDA Agriculture Handbook No. 8–15 (Finfish and Shellfish Products, 1987) and NOAA (National Oceanic and Atmospheric Administration) Technical Memo NMFS F/SEC–11, (1981) (kilocalories and fat for orange roughy and carbohydrate, vitamin A, vitamin C, calcium, and iron for all fish).

Atlantic/coho salmon was selected for labeling because most pink salmon is canned, and most sockeye salmon is exported to Japan. Atlantic/Pacific and jack mackerel were selected for labeling because consumption of Spanish mackerel is low. Personal communication with L. Weddig of National Fisheries Institute, August 15, 1991.

Nutrient values were averaged for Atlantic and coho salmon and for Atlantic and Pacific and jack mackerel.

Atlantic cod was used for cholesterol and sodium; Pacific cod would be 40 mg cholesterol and 75 mg sodium.

Values were rounded in accordance with 21 CFR 101.9. Percent U.S. RDA was based on 5,000 IU for vitamin A, 60 mg for vitamin C, 1,000 mg for calcium, and 18 mg for iron

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–4727 Filed 3–5–92; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 84N-153A]

RIN 0905-AD08

Food Labeling: "Cholesterol Free," "Low Cholesterol," and "____Percent Fat Free" Claims; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the document that proposed to amend the food labeling regulations to define "cholesterol free" and "low cholesterol" and to provide for the proper use of these terms and the term "____ percent fat free" that appeared in the Federal Register of November 27, 1991 (56 FR 60507). This document corrects various editorial errors.

DATES: Written comments by January 27, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 30 days following its publication.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

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.

In FR Doc. 91-27156, appearing at page 60507 in the Federal Register of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60511, in the third column, in reference "8.", the name "Park, Youngmeek" is corrected to read "Park, Youngmee K."

2. On page 60512, in the first column, in amendment "2.", the fifth line, "and (g) and (h)" is corrected to read "and (g)".

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-4712 Filed 3-5-92; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 101

[Docket No. 84N-0153]

RIN 0905-AB68

Food Labeling: Definitions of Nutrient Content Claims for the Fat, Fatty Acid, and Cholesterol Content of Food; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the document that appeared in the Federal Register of November 27, 1991 (56 FR 60478) that proposed to amend the food labeling regulations to define, and to provide for the proper use of, the terms "fat free," "low fat," "reduced fat," "low in saturated fat," "reduced saturated fat," "cholesterol free," "low cholesterol," and "reduced cholesterol" in the labeling of foods and to provide for the use of other truthful and nonmisleading statements about a food's fat, fatty acid, and cholesterol content in food labeling. This document corrects various editorial errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may be issued based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990 .

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

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.

In FR Doc. 91-27159, appearing at page 60478 in the Federal Register of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60485, in the third column, in the third line, the phrase "of a the nutrient" is corrected to read "of a nutrient".

2. On page 60485, in the third column, in the first complete paragraph, next to the last line, "some" is removed.

3. On page 60502, in the third column, Reference "7.", in the last line, the phrase "June 19-24, 1990" is corrected to read "June 24-28, 1990".

§ 101.62 [Corrected]

4. On page 60503, in the third column, in § 101.62 *Nutrient content claims for fat, fatty acid, and cholesterol content of foods,* the last line in the introductory text of paragraph (b)(3) is corrected by adding "provided" after "§ 101.13(1)"; and on page 60506, in the third column in paragraph (d)(5)(ii)(D), in lines 11 through 15, the two sentences reading "This pound cake contains 30 percent less cholesterol than our regular pound cake. Cholesterol lowered from 45 milligrams to 30 milligrams per serving." is corrected to read "This pound cake contains 45 percent less cholesterol than our regular pound cake. Cholesterol lowered from 55 to 30 milligrams per serving."

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-4713 Filed 3-5-92; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 20 and 101

[Docket No. 85N-0061]

RIN 0905-AB67

Food Labeling: General Requirements for Health Claims for Food; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the document that proposed rules on general requirements for health claims for food that appeared in the Federal Register of November 27, 1991 (56 FR 60537). This document corrects various editorial errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following publication of a final regulation pertaining to health claims in food labeling in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, 301-443-1751.

FOR FURTHER INFORMATION CONTACT: Victor P. Frattali, Center for Food Safety and Applied Nutrition (HFF-261), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1064.

In FR Doc. 91–27151 appearing on page 60537 in the **Federal Register** of Wednesday, November 27, 1991, the following corrections are made:

1. On the same page, in column 2, in the fourth line in the heading, the word "Food" is added before the word "Labeling".

2. On page 60539, in column 3, in the third complete paragraph, the last line is corrected to read "(Congressional Record, October 26, 1990)".

3. On page 60548, in column 1, the parenthetical phrase following the quoted paragraph "(H. Rept. 301–538, 101st Cong., 2nd sess., 19)" is corrected to read "(H. Rept. 101–538, 101st Cong., 2d sess., 21)".

4. On page 60553, in column 3, in the third paragraph, in the ninth line, "303(a)" is corrected to read "343(a)".

5. On page 60554, in column 2, in the third complete paragraph, in the sixth line, the phrase "SSFR 29516" is corrected to read "55 Fr 29516"; in the fourth paragraph, in the first line, the phrase "what to be done" is corrected to read "what should be done".

6. On page 60555, in column 1, in the first complete paragraph, in the last line "be drawn?" is corrected to read "be drawn."

7. On page 60557, in column 1, in the third complete paragraph, the seventh line, "ac' " is corrected to read "act"; and in column 2, in the third complete paragraph in the third and fifth lines, "§ 101.13(g)" and "§ 101.13", are corrected to read "§ 101.14(g)" and "101.14", respectively.

8. On page 60560, in column 2, in the 12th line from the bottom, "§ 101.17" is corrected to read "§ 101.71".

9. On page 60561, in column 3, in the last paragraph, in the fifth line, the word "Foods" is corrected to read "Food".

§ 101.14 [Corrected]

10. On page 60563, in § 101.14 *Health claims: general requirements,* in paragraph (a)(1), in the ninth line, the word "that" is removed; and in column 2, in the third line, the word "or" is corrected to read "a"; in paragraph (a)(4), in the sixth line the word "substance" is corrected to read "component"; in paragraph (c)(1), in line 3, the word "welldesigned" is corrected to read "well-designed"; and on page 60564, in paragraph (d)(2)(iv), in the 12th line, the word "healthrelated" is corrected to read "health-related".

§ 101.70 [Corrected]

11. On page 60565, in column 3, in § 101.70 *Petitions for health claims,* in paragraph (j)(3)(ii), in the third line, the word "request" is corrected to read "requested".

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–4714 Filed 3–5–92; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 101

[Docket Nos. 90N–0134 and 90N–0135]

RIN 0905–AD08

Food Labeling; Reference Daily Intakes and Daily Reference Values; Mandatory Status of Nutrition Labeling and Nutrient Content Revision; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the **Federal Register** of November 27, 1991 (56 FR 60366). The document supplemented and republished in modified form, FDA's proposals entitled "Food Labeling; Mandatory Status of Nutrition Labeling and Nutrient Content Revision" (55 FR 29487, July 19, 1990) and "Food Labeling; Reference Daily Intakes and Daily Reference Values" (55 FR 29476, July 19, 1990). The document was published with some editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Virginia L. Wilkening, Center for Food Safety and Applied Nutrition (HFF–204), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–245–1561.

In FR Doc. 91–27155, appearing on page 60366, in the **Federal Register** of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60367, in the second column, in the second full paragraph, line 10, the phrase "intends to address this subject in a subsequent document" is corrected to read "is addressing this subject elsewhere in this issue of the **Federal Register**"

2. On page 60374, in the first column, line 1, "standards" is corrected to read "standard".

3. On page 60375, in the second column, the second table is corrected to read as follows:

NUTRITION INFORMATION PER SERVING

Serving size:	1 tbsp (14 g)
Servings per container:	64
Calories	130
Calories from total fat	130
Total fat	14 g
Saturated fat	2 g
Polyunsaturated fat	4 g
Monounsaturated fat	8 g
Total carbohydrate	0 g
Protein	0 g
Sodium	0 mg

Not a significant source of cholesterol, complex carbohydrate, sugars, dietary fiber, vitamin A, vitamin C, calcium, or iron.

4. On page 60379, in the second column, in the paragraph numbered "(1)", line 10, "½" is added before "gram" and in line 11, "1" is corrected to read "0.25".

5. On page 60381, in the second column, in the second full paragraph, in the fourth line from the bottom, the word "Amendnent" is corrected to read "Amendment".

6. On page 60384, in the hypothetical label for B-vitamins, the entry for "Sugars, g" is corrected by indenting it 2 spaces under the entry "Total Carbohydrate, g".

7. On page 60386, in the first column, Reference 20 is corrected by removing "(1988–1991)".

§ 101.9 [Corrected]

8. On page 60387, in the third column, in § 101.9 *Nutrition labeling of food,* in paragraph (c)(4)(ii), "Unsaturated fatty acid," is corrected to read "Unsaturated fat," the first time it appears; on page 60389, in paragraph (c)(8)(iii), the phrase "and 14 grams of protein for infants" is corrected to read "14 grams of protein for infants, 60 grams of protein for pregnant women, and 65 grams for lactating women"; and in the third column, in paragraph (c)(11)(iii), "percentages hall" is corrected to read "percentages shall".

§ 101.36 [Corrected]

9. On page 60393, in the second column, in § 101.36 *Nutrition labeling of dietary supplements of vitamins and minerals,* in paragraph (b)(1), "practicably" is corrected to read "practicable".

Dated: February 21, 1992.
Michael R. Taylor,
Deputy Commissioner for Policy.
[FR Doc. 92-4715 Filed 3-5-92; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 101

[Docket No. 90N-0165]

RIN 0905-AD08

Food Labeling; Serving Sizes; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Reproposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule on serving sizes that appeared in the Federal Register of November 27, 1991 (56 FR 60394). The document was published with some typographical and editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Youngmee K. Park, Center for Food Safety and Applied Nutrition (HFF-265), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0089.

In FR Doc. 91-27157, appearing on page 60394 in the Federal Register of Wednesday, November 27, 1991, the following corrections are made:

1. On the same page in the "Action" line, "Proposed rule" is corrected to read "Reproposed rule".

2. On page 60400, in the first column, in the second full paragraph, line 1, the phrase "FDA acknowledges that the 1987-1988 NFCS data" is corrected to read "FDA acknowledges that NFCS data".

3. On page 60402, in the first column, in the second paragraph, the first sentence is corrected to read "Fish sticks are included in the category of 'Fish, Shellfish, and Meat or Poultry Substitutes: Entrees (cooked) without sauce'."

4. On page 60403, in the third column, in the second paragraph, line 7, the parenthetical statement "(e.g., consumption increased or decreased substantially)" is corrected to read "(e.g., CSS values increased or decreased substantially)".

5. On page 60405, in the second column, in paragraph A, line 3, "and the sample sizes for both surveys were equally adequate" is removed and the word "then" is added in its place; in the third column, paragraph C, line 4, the word "recipies" is corrected to read "recipes".

6. On page 60410, in the third column, in the second full paragraph, line 8, the phrase "Compliance Act and for compliance" is corrected to read "Competitiveness Act and for compliance".

7. On page 60415, in the third column, Reference 7, line 5, "Population Strategies for Blood Cholesterol Reduction, NIH Publication No. 90-3047," is corrected to read "Blood Cholesterol Levels in Children and Adolescents', NIH Publication No. 91-2732,".

8. On page 60416, in the first column, Reference 26, line 2, the words "Nonresponse of" are corrected to read "Nonresponse on", and in Reference 29, line 2, the words "for women 10-50" is corrected to read "for women 19-50,".

9. On page 60418, in the second column, Table 2, under the heading "Product category", eight lines from the bottom, the entry "Grains, e.g., rice, barley, plain or seasoned" is corrected to read "Grains, e.g., rice, barley, plain."

10. On page 60418, in the third column, Table 2, for the entry "Sour cream" the reference amount "25 g." is corrected to read "30 g."

11. On page 60419, the third column, for the entry "Confectioner's sugar" the reference amount "2 tbsp." is corrected to read "¼ cup."

Dated: February 21, 1992.
Michael R. Taylor,
Deputy Commissioner for Policy.
[FR Doc. 92-4716 Filed 3-5-92; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 100

[Docket No. 91N-0038]

RIN 0905-AD08

State Petitions Requesting Exemption from Federal Preemption; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that provided for petitions requesting exemption from preemption for certain State or local food standards and other labeling requirements that are preempted under the provisions of the Nutrition Labeling and Education Act of 1990 that appeared in the Federal Register of November 27, 1991 (56 FR 60528). The proposed rule published with typographical and editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective November 8, 1992, or 30 days after date of publication in the Federal Register, if earlier.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, 301-443-1751.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0229.

In FR Doc. 91-27153, appearing on page 60528, in the Federal Register of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60531 in the second column, in the fourth paragraph, line 11, the phrase "in the applicable Federal law regulation" is corrected to read "in the applicable Federal law or regulation".

§ 100.1 [Corrected]

2. On page 60532, in the third column, in the section heading of § 100.1, the word "requestinc" is corrected to read "requesting".

Dated: February 21, 1992.
Michael R. Taylor,
Deputy Commissioner for Policy.
[FR Doc. 92-4717 Filed 3-5-92; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 101

[Docket No. 91N-0094]

RIN 0905-AB67

Food Labeling: Health Claims; Calcium and Osteoporosis; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the Federal Register of November 27, 1991 (56 FR 60689). The document proposed

to authorize the use on food labels and in labeling of health claims relating to the association between calcium and osteoporosis. The document was published with some editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mona S. Calvo, Center for Food Safety and Applied Nutrition (HFF–265), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202–485–9564.

In FR Doc. 91–27160, appearing on page 60689, in the **Federal Register** of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60689, in the first column in the "**SUMMARY**" caption, in the third line from the bottom, the word "Recommended" is corrected to read "Reference".

2. On page 60693, in the third column, in the third paragraph, in the third line, the word "Assessment" is corrected to read "Comment".

3. On page 60695, in the first column, in the second full paragraph, in the fifth line, the words "or different skeletal sites" are added after the word "bone".

4. On page 60697, in the third column in the first full paragraph, in the fourth line from the bottom, the word "to" is corrected to read "of".

5. On page 60698, in the second column, in the first full paragraph, in the 12th line from the bottom, the word "because" is removed and the words "more to increase intake" are added in its place; in the third column, in the third full paragraph, in the second line from the bottom the word "quantitative" is corrected to read "quantitate".

§ 101.72 [Corrected]

6. On page 60705, in the second column, in § 101.72 *Health claims: calcium and osteoporosis,* paragraph (a), in the fifth line, the word "numerous" is corrected to read "of"; on page 60706, in paragraph (d)(5), in the third line, the word "recommended" is corrected to read "reference".

7. On page 60707, in Table 1, in the "Base Diet" column, in the second entry, "intake: 7" is corrected to read "intake"; in the "Additional Treatments" column, in the second entry, in the second to the last line, "no" is corrected to read "not"; in the "Comments" column, in the second entry, "decreased the incidence" is corrected to read "decrease the incidence".

8. On page 60708, in table 1, in the "Number and Description of Subjects" column, "of" is removed from the entry.

9. On page 60709, in Table 1, the "Source and Identity of Test Material" column, "Placebo micro crystalline cellulose calcium carbonate Calcium citratemalate (CCM)" is corrected to read "Placebo: micro crystalline cellulose; Calcium carbonate; Calcium citrate malate (CCM)."; in the "Dosage of Test Material Used" column, the entry is corrected to read "Placebo: 500 mg/day; Calcium carbonate: 500 mg/day elemental calcium; CCM: 500 mg/day elemental calcium"; in the "Other Factors Affecting Interpretation of Data" column, "of bone loss" is corrected to read "of bone loss"; in the "Results" column, in the 10th line, a period is added after the word "source"; and in the 32d line, a period is added after the word "CCM".

10. On page 60711, in Table 1, in the "Source and Identity of Test Material" column, "(L500 mg/day)" is corrected to read "(<500 mg/day)" and "(>500 mg" is corrected to read "(≥500 mg/day".

11–12. On page 60713, in Table 1, in the "Additional Treatments" column, "Range: 286 to 2,128" is removed.

13. On page 60715, in Table 1, in the "Number and Description of Subjects" column, in the first entry, "Mothers" is corrected to read "Mothers:".

14. On page 60718, in Table 1, in the "Additional Treatments" column, "Exercise, high dietary calcium n=9" is added after the first time "n=9" appears.

15. On page 60720, in Table 1, in the "Source and Identity of Test Material," "Dosage of Test Material Used," and "Base Diet" columns, a ":" is added after "Untreated controls".

16. On page 60724, in Table 1, in the "Additional Treatments" column, "hyperparathyroidis m" is corrected to read "hyperparathyroidism".

17. On page 60725, in Table 1, in the "Source and Identity of Test Material" column, "(n=28)" is corrected to read "(n=28);" "800 to 135" is corrected to read "800 to 1350"; and "(n=95)" is corrected to read "(n=95);".

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–4718 Filed 3–5–92; 8:45am]

BILLING CODE 4160–01–M

21 CFR Part 101

[Docket No. 91N–0095]

RIN 0905–AB67

Food Labeling: Health Claims and Label Statements; Sodium Hypertension; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the **Federal Register** of November 27, 1991 (56 FR 60825). The document was published with some editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Ellen M. Anderson, Center for Food Safety and Applied Nutrition (HFF–266), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5375.

In FR Doc. 91–27168, appearing at page 60825 in the **Federal Register** of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60826, in the first column, in the first full paragraph, in the sixth line from the bottom, the phrase "descriptive terms for 'low sodium' and 'reduced sodium' foods" is corrected to read "descriptive terms for 'sodium free,' 'very low sodium,' 'low sodium,' and 'reduced sodium' foods"; and in the third column, second paragraph, in the third line from the bottom, the phrase "four clinical trials (Refs. 44, 70, 79, and 109), and three meta-analyses (Refs. 100, 106, and 107)" is corrected to read "and associated studies (Refs. 50, 51, 52, 53, 54, 58, 59, and 64); fifteen clinical trials (Refs. 41, 42, 44, 45, 55, 70, 71, 76, 79, 80, 109, 121, 122, 123, and 124); and five meta-analyses (Refs. 94, 97, 100, 106, 107)".

2. On page 60827, in the first column, in the third paragraph, line 14, the phrase "from the substance" is corrected to read "from reducing the substance".

3. On page 60829, in the third column, the heading for the section "3. 'Dietary

Sodium Chloride and Blood Pressure,' 1991" is correctly revised to read: "3. 'Sodium and Hypertension,' 1991".

4. On page 60833, in the second column, line 6, the word "and" is corrected to read "of"; and in the second full paragraph, lines 12–14, the phrase "17 clinical trials (Refs. 41, 42, 44, 45, 55, 70, 71, 76, 79, 80, 94, 97, 109, 121 through 124)" is corrected to read "15 clinical trials (Refs. 41, 42, 44, 45, 55, 70, 71, 76, 79, 80, 109, and 121 through 124)".

5. On page 60836, in the third column, in the first full paragraph, lines 5 and 6, "HG" is corrected to read "Hg" the two places it appears.

6. On page 60837, in the second column, in the first full paragraph, line 6, add after § 101.14 "and the general requirements for sodium content and 'low sodium' claims set forth in proposed § 101.61"; and in line 19, "and" is corrected to read "or"; and in line 29, "§ 101.74(c)(2)" is corrected to read "§ 101.74(c)(1)".

7. On page 60838, in the second column, in the second full paragraph, line 14, "(Ref. 1982)" is corrected to read "(Ref. 12)".

8. On page 60841, in the third column, in Reference 17, the word "*Archieves*" is corrected to read "*Archives*".

9. On page 60842, in the first column, in Reference 34, "*Journal of*" is removed; in Reference 35, "*Journal of*" is removed and the word "*Sciences*" is corrected to read "*Science*"; and in the third column, in Reference 61, "(Sunpl)" is corrected to read "(Suppl.)".

10. On page 60843, in the first column, in Reference 68, "(Sunpl. I)" is corrected to read "(Suppl. I)"; in Reference 74, "DriHS" is corrected to read "DHHS"; in Reference 81, "DHRIS" is corrected to read "DHHS"; in the second column, in Reference 88, the title reading "The Biology and Medicine of Signal Transduction in *The Biology and Medicine of Signal Transduction*" is corrected to read "*The Biology and Medicine of Signal Transduction*"; in Reference 94, the author's name reading "II Suh" is corrected to read "I. Suh"; and in the third column, Reference 108 is correctly revised to read as follows:

108. LSRO, Kotchen, T., "Evaluation of Publicly Available Scientific Evidence Regarding Certain Nutrient-Disease Relationships: 4. Sodium and Hypertension" prepared for the Center for Food Safety and Applied Nutrition, FDA, DHHS, FDA Contract No. 223–88–2124, Task Order No. 9, FASEB, November, 1991.

11. On page 60844, in the first column, in Reference 121, the word "Cororan" is corrected to read "Corcoran"; and in Reference 122, the word "estriction" is corrected to read "Restriction".

§ 101.74 [Corrected]

12. On page 60844, in § 101.74 *Health claims: sodium and high blood pressure,* paragraph (b), in the 19th line from the bottom of the second column, the phrase "males because they develop hypertension earlier in life" is corrected to read "males because they develop hypertension earlier in life than females"; in the third column, paragraph (c)(1), line 3, the phrase "§ 101.14 for health claims" is corrected to read "§ 101.14 for health claims" is corrected to read "§ 101.14 for health claims and of § 101.61 for 'low sodium' content claims"; and in paragraph (d) introductory text, line 1, the phrase "Sodium/hypertension in health claims" is corrected to read "Sodium/hypertension health claims".

13. On page 60850, in Table 2, under the heading "Results," in the fifth line from the bottom, "DPB" is corrected to read "DBP".

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–4719 Filed 3–5–92; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 101

[Docket No. 91N–0097]

RIN 0905–AD08

Food Labeling: Health Messages; Dietary Lipids and Cancer; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the **Federal Register** of November 27, 1991 (56 FR 60764). The document proposed to authorize health claims on foods and food labeling that state that diets low in total fat may reduce the risk of some types of cancer, particularly colon, breast, and prostate, in the general population. The document was published with some editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: He-Chong C. Lee, Center for Food Safety and Applied Nutrition (HFF–265), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–485–0358.

In FR Doc. 91–27162, appearing at page 60764 in the **Federal Register** of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60769, in the third column, in the fourth full paragraph, in the second line from the bottom, the word "an" is removed.

2. On page 60771, in the first column, in the fourth full paragraph, in line 7, the phrase "saturated fat component" is corrected to read "other fat components"; and in the third column, in the first full paragraph, in the second line from the bottom, the word "of" the first time it appears is removed, and the word "the" is added in its place.

3. On page 60778, in the third column, in Reference 62, in line 5, the word "*National*" is corrected to read "*New*".

4. On page 60779, in the first column, in Reference 82, the author's name "Vecchia, C. L." is corrected to read "LaVecchia, C."

5. On page 60785, in Table 1, in the "Results" column, the following statement was inadvertently omitted and is added to the end of the entry, beginning with a new line: "Gall bladder and common duct tumor: Incidence of polyps in common duct was significantly higher in beef tallow group than corn oil group; fat type did not significantly affect the incidence. Fat level did not consistently affect tumorigenesis in gall bladder or common duct. Overall survival rate was significantly higher in high beef tallow and high mixed groups than low beef tallow and corn oil group"; and in the "Assessment" column, the following statement was inadvertently omitted and is added to the end of the entry, "rates of carcinoma incidence (2 percent in gall bladder and no report in common duct)".

6. On page 60786, in the "Diet" column, "High fat" is corrected to read "Corn oil"; the entry "linoleic 50.2 51.9" is corrected to read "linolic 50.2 51.9"; the entry "linoleic 4.6 1.8" is corrected to read "linoleic [sic] 4.6 1.8"; and in the "Assessment" column, beginning in line 12, the words "and we do not know the adequacy of linoleic acid in test diets" are removed.

7. On page 60788, in the "Additional Treatment" column, in lines 1 through 3, the chemical name "12–0–tetradecanoylphorbol-13-acetate (DMBA)" is corrected to read "7,12-dimethylbenz(a)anthracene (DMBA)".

8. On page 60790, in the "Results" column, in line 12, the phrase "of metastatic fish oil" is corrected to read "metastatic foci"; and in line 14, "inhibit" is corrected to read "inhibited".

9. On page 60797, in the "Results" column, in line 3, the word "of" is corrected to read "and"; and in line 6, the phrase "but not as w" is corrected to read "but not as weight".

10. On page 60799, in the "Results" column, line 5, "(n=0.5)" is corrected to read "(r=0.51)".

11. On page 60801, in the "Results" column, in line 6, the word "HIGHEST" is corrected to read "confidence interval".

12. On Page 60804, in the "Assessment" column, in line 2, "calcium" is corrected to read "cancer".

13. On page 60806, in the "Study Design and Population" column, in the second entry, in line 6, "30 year" is corrected to read "30 years of age"; and in line 8, "48" is corrected to read "148".

14. On page 60807, in the "Results" column, in the first entry, in line 8, "development" is corrected to read "involvement".

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-4720 Filed 3-5-92; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 101

[Docket No. 91N-0098]

RIN 0905-AD08

Food Labeling; Health Claims; Dietary Fiber and Cancer; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the proposed rule that appeared in the **Federal Register** of November 27, 1991 (56 FR 60566) on dietary fiber and cancer. The document was published with some editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joyce J. Saltsman, Center for Food Safety and Applied Nutrition (HFF-265), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0316.

In FR Doc. 91-27164, appearing at page 60566 in the **Federal Register** of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60566, in the third column, in the first full paragraph, in the fourth line, the parenthetical "(DHHS/PHS, 1990)" is corrected to read "(Ref. 46)".

2. On page 60568, in the second column, in the fourth full paragraph, in the seventh line; and on page 60569, in the first column, in the third full paragraph, in the first line, the words "The Surgeon General's Report Nutrition and Health" is corrected to read "The Surgeon General's Report on Nutrition and Health".

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-4721 Filed 3-5-92; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 101

[Docket No. 91N-0100]

RIN 0905-AB67

Food Labeling: Health Claims and Label Statements; Folic Acid and Neural Tube Defects; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the proposed rule that published in the **Federal Register** of November 27, 1991 (56 FR 60610). The document proposed not to authorize the use on the label and labeling of foods, including dietary supplements, of health claims relating to an association between folic acid and reduction in risk of neural tube defects. The document was published with some editorial errors. This document corrects those errors.

DATE: Submit written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857

FOR FURTHER INFORMATION CONTACT: Jeanne I. Rader, Center for Food Safety and Applied Nutrition (HFF-268), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-6067.

In FR Doc. 91-27167, appearing at page 60610 in the **Federal Register** of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60610, in the first column, in the "DATES" paragraph, in the first line, "(January 27, 1992" is corrected to read "February 25, 1992".

2. On page 60611, in the first column, in the third paragraph, in the third line, the word "with" is added after "vary".

3. On page 60614, in the third column, in the fourth full paragraph, in the fifth line, "casecontrol" is corrected to read "case-control".

4. On page 60616, in Table 2, in the "Results" column, in the fourth entry, the words "than for those whose diets provided <100 μg folate per day" is added after the phrase "folate per day" at the end of the entry.

5. On page 60618, in the first column, in the first full paragraph, in the 14th line, "360 mg" is corrected to read "360 μg".

6. On page 60619, in the third column, under paragraph "a.", in the second line, the word "Dericonceptional" is corrected to read "Periconceptional".

7. On page 60621, in the first column, in the second complete paragraph, in the sixth line, the word "kingdom" is removed.

8. On page 60623, in the first column, under item VI., in the second line, "January 27, 1992" is corrected to read "February 25, 1992"; in the second column, in Reference 5, the title "*British Journal of Obstetrics and the Gynaecology*", is corrected to read "*British Journal of Obstetrics and Gynaecology*"; in Reference 9, the word "*Enidemiologic*" is corrected to read, "*Epidemiologic*".

9. On page 60624, in the first column, in Reference 33, the word "*Diaanosis*" is corrected to read "*Diagnosis*".

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-4772 Filed 3-5-92; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 101

[Docket No. 91N-0101]

RIN 0905-AB67

Food Labeling: Health Claims and Label Statements; Antioxidant Vitamins and Cancer; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the Federal Register of November 27, 1991 (56 FR 60624). The document proposed not to authorize the use on foods, including dietary supplements, of health claims relating to the association between antioxidant vitamins and cancer. The document was published with some editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Aministration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John N. Hathcock, Center for Food Safety and Applied Nutrition (HFF-268), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-245-1198.

In FR Doc. 91-27161, appearing on page 60624 in the Federal Register of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60625, in the third column, in the third full paragraph, in the 6th and 10th lines, "Ref. 4" is corrected to read "Ref. 4a".

2. On page 60626, in the first column, in the ninth line, the words "A way" is corrected to read "Another way".

3. On page 60627, in the first column, in paragraph "a.", in the fifth line, "Refs. 4" is corrected to read "Refs. 4a".

4. On page 60632, in the second column, in the fifth paragraph, in the fourth line, the words "5 of more" are corrected to read "5 or more".

5. On page 60638, in the third column, Reference 4b is removed.

6. On page 60639, in the first column, Reference 5a is removed.

7. On page 60640, in the first column, in Reference 68, in the third line, the word "Miconuclei" is corrected to read "Micronuclei"; and in the second column, Reference 72b is removed.

8. On page 60641, in the second column, Reference 127, first line, the author's name "Ferrell, P.M." is corrected to read "Farrell, P.M.".

9. On page 60651, in Table 16, under the heading "Authors/year," the fifth entry "Verrault" is corrected to read "Verreault".

Dated: February 21, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-4723 Filed 3-5-92; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 101

[Docket No. 91N-0102]

RIN 0905-AD08

Food Labeling: Health Claims; Zinc and Immune Function in the Elderly; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that published in the Federal Register of November 27, 1991 (56 FR 60652). The document proposed not to authorize the use on foods, including dietary supplements, of health claims relating to the association between zinc and immune function in the elderly. The document was published with some editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James E. Hoadley, Center for Food Safety and Applied Nutrition (HFF-268), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5104.

In FR Doc. 91-27163, appearing on page 60652 in the Federal Register of Wednesday, November 27, 1991, the following corrections are made:

1. On page, 60652 in the first column, after the "**DATES**" section, the "**ADDRESSES**" section was inadvertently omitted. It is added to read as follows: "**ADDRESSES:** Written comments to the Dockets Management Branch (HFA-305) Food and Drug Administration, rm 1-23, 12420 Parklawn Dr., Rockville, MD 20857"

2. On page 60656, in Table 1, in the "Reference" column, the entry "Bracker et al., 1988 (Ref. 35)." is corrected to read "Bracker et al., 1988 (Ref. 33)." and in the "Results" column, in the fifth entry, line 3, "p<05" is corrected to read "p<.05,".

3. On page 60657, in the "Reference" column, the entry "Bogden et al., 1990 (Ref. 34)." is corrected to read "Bogden et al., 1990 (Ref. 35)."; and in the "Description of subjects" column, line 2 "389" is corrected to read "89".

4. On page 60662, in the first column, in Reference 8, "Sherman, A.R., N.A. and" is corrected to read "Sherman, A.R. and N.A."; in Reference 9, the word "of" is added after the word "*Journal*"; in the second column, in Reference 26, line 3, the words "edited by W. R. Beisel," are added before the word "Federation"; and in the third column, Reference 40, "48:373-9, 1990." is corrected to read "48:373-379, 1990".

5. On page 60663, in the first column, Reference 48, "*Journal of the American Association,*" is corrected to read "*Journal of the American Medical Association*".

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-4724 Filed 3-5-92; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 101

[Docket No. 91N-0103]

RIN 0905-AB67

Food Labeling: Health Claims and Label Statements; Omega-3 Fatty Acids and Coronary Heart Disease; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the Federal Register of November 27, 1991 (56 FR 60663). The document proposed not to authorize the use on foods, including dietary supplements, of health claims relating to the association between omega-3 fatty acids and coronary heart disease. The document was published with some editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John C. Wallingford, Center for Food Safety and Applied Nutrition (HFF–265), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202–245–0835.

In FR Doc. 91–27166, appearing on page 60663 in the **Federal Register** of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60663, in the third column, under the **SUPPLEMENTARY INFORMATION** caption, in the first paragraph, in the second line from the bottom, "403(r)(i)(B)" is corrected to read "403(r)(1)(B)"; and in the third paragraph, line 3, "(b)(1)(a)(x)" is corrected to read "(b)(1)(A)(x)".

2. On page 60665, in the first column, in the third full paragraph, in the second line from the bottom, the word "specific" is removed; and in the second column, in the first full paragraph, lines 27–29, "on 'Cardiovascular Effects from Omega-3 Fatty Acids' " is removed, and " 'Evaluation of Publicly Available Scientific Evidence Regarding Certain Nutrition-Disease Relationships: 7. Omega-3 Fatty Acids and Heart Disease' " is added in its place.

3. On page 60666, in the first column, line 17, the period after the word "comment" is removed, and the words "except for the submitted book, 'Health Effects of ω3 Polyunsaturated Fatty Acids in Seafoods.' " are added in its place; in the second column, under the heading "B. *Other Reports*", in the eighth line, "(Ref. 115)" is added after the word "documented"; and in the third column, in the last paragraph, line 1, "(Ref. 100)" is added after the word "report".

4. On page 60667, in the first column, in the first full paragraph, in the third line from the bottom, "(Ref. 100)" is added after the word "report"; in the third full paragraph, line 13, "placebocontrolled" is corrected to read "placebo-controlled"; and in the second column, in the second full paragraph, line 3, the word "Assessment" is corrected to read "Comments".

5. On page 60672, in the first column, in the second full paragraph, line 1, "(Ref. 100)" is added after the word "report".

6. On page 60673, in the first column, in Reference 7, "W–3" is corrected to read "ω–3"; in the second column, in Reference 20, "N–3" is corrected to read "ω–3"; in Reference 27, third column, line 2, "*Arterio Sclerosis,*" is corrected to read "*Arteriosclerosis,*"; and in Reference 41, "N–3" is corrected to read "ω–3".

7. On page 60674, in the first column, in References 42 and 54, "N–3" is corrected to read "ω–3"; in the second column, in Reference 61, "W–3" is corrected to read "ω–3"; References 68 and 69 are corrected to read as follows:

68. Hirai, A., T. Terano, H. Saito, Y. Tamura, S. Yoshida, "Clinical and Epidemiological Studies of Eicosapentaenoic Acid in Japan," in *Proceedings of the AOCS Short Course on Polyunsaturated Fatty Acids and Eicosanoids*, W. E. M. Lands, Ed. AOCS, Champaign, IL.

69. Hollander, W., S. Hong, B. J. Kirkpatrick, A. Lee, M. Colombo, S. Prusty, "Differential Effects of Fish Oil Supplements on Atherosclerosis," *Circulation*, 76:IV–313, 1987.

8. On the same page, in the third column, in Reference 79, line 1, the author's name "Kusion, S. E." is corrected to read "Kasim, S. E."; and in Reference 86, "N–3" is corrected to read "ω–3".

9. On page 60675, in the first column, in References 88 and 89, "N–3" is corrected to read "ω–3"; also in Reference 89, line 4, the word "*Intern*" is corrected to read "*Internal*"; in Reference 91, "N–3" is corrected to read "ω–3"; in Reference 100, the title "Cardiovascular Effects from Omega-3 Fatty Acids" is corrected to read "Evaluation of Publicly Available Scientific Evidence Regarding Certain Nutrition-Disease Relationships: 7. Omega-3 Fatty Acids and Heart Disease"; in the second column, in Reference 111, "N–3" is corrected to read "ω–3"; in Reference 114, "W–3" is corrected to read "ω–3"; and in the third column, Reference 122 is corrected to read as follows:

122. Weiner, B. H., I. S. Ockene, P. H. Levine, et al., "Inhibition of Atherosclerosis by Cod-Lover Oil in a Hyperlipidemic Swine Model," *New England Journal of Medicine*, 315:841–846, 1986.

10. On page 60676, in the first column, in Reference 133, "N–3" is corrected to read "ω–3".

11. On page 60677, in Table 1, in the "Reference" column, the fifth entry is corrected to read as follows: "Harai et al. 1980 in *Proceedings of the AOCS Short Course on Polyunsaturated Fatty Acids and Eicosanoids*, W. E. M. Land, editor, AOCS, Champaign, IL."

12. On page 60679, in Table 2, in the "Comments" column, in the second entry, line 6, the word "can" is removed.

13. On page 60682, in Table 2, in the "Subjects" column, in the eighth entry, "insulin-dependent" is corrected to read "noninsulin-dependent".

14. On page 60685, in Table 2, in the "Reference" column, in the eighth entry, "9:352" is added after the word "*Nutrition*"; and in the "Amount" column, in the ninth entry, "n–3" is corrected to read "ω–3".

15. On page 60686, in Table 2, in the "Reference" column, in the sixth entry, "Suppl." is removed, and "48:469" is added in its place; and in the last entry, "77:53" is added after the word "*Atherosclerosis*"; in the "Amount" column, in the seventh entry, "n–3" is corrected to read "ω–3".

16. On page 60687, in Table 2, in the "Amount" column, in the first entry, "n–3" is corrected to read "ω–3".

17. On page 60688, in Table 2, in the "Findings" column, in the second entry, "Tgs" is corrected to read "TGs"; in the fourth entry, the word "angine" is corrected to read "angina"; and in the "Comments" column, in the sixth entry, lines 3 and 4, the phrase "from n–3 fatty acids, large amt of n–3s" is corrected to read "from ω–3 fatty acids, large unit of ω–3s".

18. On page 60689, in the paragraph following Table 2, at the end of line 4, the words "RBC, red blood cell; IDDM, insulin-dependent diabetes mellitus; NIDDM, Noninsulin-dependent diabetes mellitus; MI myocardial infarction (heart attack); AMA, American Medical Association; GI, gastrointestinal; HbA, hemoglobin A", which were inadvertently omitted, are added.

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–4725 Filed 3–5–92; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 130

[Docket No. 91N–0317 et al.]

RIN 0905–AD08

Food Standards: Requirements for Substitute Foods Named by use of a Nutrient Content Claim and a Standardized Term; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the

Federal Register of November 27, 1991 (56 FR 60512). The document proposed to amend the General Provisions for food standards to prescribe a general definition and standard of identity for substitute foods named by use of a nutrient content claim defined in 21 CFR part 101 (such as "fat free," "low calorie," and "light") in conjunction with a traditional standardized name (for example "reduced-fat sour cream"). The document was published with some editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFF–414), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–485–0112.

In FR Doc. 91–27170, appearing on page 60512 in the Federal Register of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60517, in the third column, in the second full paragraph, in the eighth line from the bottom, "403(r)(5)(CC)" is corrected to read "403(r)(5)(C)".

2. On page 60518, in the second column, in the third full paragraph, in the last line, "§ 101.62(b)(2)(ii)" is corrected to read "§ 101.13(j)(2)(ii)".

3. On page 60520, in the second column, in the second full paragraph, in the fifth line, "21 CFR 133.134" is corrected to read "21 CFR 133.133".

§ 130.10 [Corrected]

4. On page 60523, in the first column, in § 130.10 *Requirements for substitute foods named by use of a nutrient content claim and a standardized term,* in paragraph (c), in the third line from the bottom, "onehalf" is corrected to read "one-half".

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–4726 Filed 3–5–92; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 101

[Docket No. 91N–0096]

RIN 0905–AB67

Food Labeling: Health Claims and Label Statements; Lipids and Cardiovascular Disease; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the Federal Register of November 27, 1991 (56 FR 60727), that proposed to authorize the use on foods and food labeling of health claims relating to the association between reduction in dietary intake of lipids (particularly saturated fats and cholesterol), decreased blood cholesterol, and decreased risk of cardiovascular disease, particularly coronary heart disease. The document was published with some editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule they may issue based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Paddy Wiesenfeld, Center for Food Safety and Applied Nutrition (HFF–268), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–245–1492.

In FR Doc. 91–27169 appearing on page 60727, in the Federal Register of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60728, in the first column, in the first full paragraph, line 14, "(omega-6-fatty acids)" is corrected to read "(omega-3-fatty acids)"; and in line 15, (omega-3-fatty acids)" is corrected to read "(omega-6-fatty acids)".

2. On page 60731, in the first column, in the first full paragraph, in the fifth line from the bottom, the word "fat" is corrected to read "products"; in the last line "Ref. 150" is corrected to read "Ref. 29"; and in the third column, after the first full paragraph, the following paragraph was inadvertently omitted and is added to read as follows:

Many recent studies have demonstrated a positive link between dietary saturated fatty acids and serum cholesterol levels within populations. These results strengthen the previous conclusions based on between populations studies which showed a clear correlation of saturated fatty acid and CHD. Unanswered questions, however, still persist about the mechanisms by which saturated fatty acids raise total cholesterol and variability of individual response to saturated fatty acids. Some recent data suggest that variability of response to saturated fatty acid is congruent with that of dietary cholesterol.

3. On page 60733, in the first column, in the third full paragraph, line 9 "(5.65 mmol/L; 218 mg/dL) (5.65 mmal/L; 218 mg/dL)" is corrected to read "(5.56 mmol/L; 218 mg/dL)"; and in line 15, "5.45 mmal/L" is corrected to read "5.45 mmol/L"; and in the third column, in the second full paragraph, the last line, "220" is corrected to read "200".

4. On page 60734, in the first column, in the last paragraph, line 2, the word "*cholesterol*" is added to the heading, after the word "serum"; in the third column, before paragraph "(2)", the following paragraph, which was inadvertently omitted, is added to read as follows:

The effectiveness of dietary counseling on the appearance of new coronary lesions was reported by Blankenhorn et al. (Ref. 7). Eighty-two placebo controls out of 162 subjects of the (randomized, blinded, controlled; Cholesterol Lowering Atherosclerosis Study (CLAS)) trial were examined. Dietary goals for the placebo controlled subjects were to reduce total dietary fat and saturated fat to 26 and 5 percent of calories, respectively. In those subjects with no new coronary lesions, calories from total and staturated fat was 27.5 and 7.4 percent, respectively. In those subjects with new coronary lesions, the percent of calories from total fat and saturated fat was 34.1 and 9.2 percent, respectively. Dietary assessment was determined from 24-hour dietary recall data.

5. On page 60735, in the first column, in the first full paragraph, line 1, the word "of" is added after the word "number"; and in line 2, "and clinical trials" is removed; in the fourth full paragraph, line 6, "(Ref. 66)" is added after the word "levels"; in the second column, line 13, "2–" is corrected to read "25"; in the first full paragraph, line 1, "(Ref. 41)" is added after the word "study"; and in the third column, in the third full paragraph, line 9, the word "and" is added before the word "salad"

6. On page 60736, in the first column, in the first full paragraph, line 3, "1885" is corrected to read "1985"; and the last sentence is removed.

7. On page 60738, in the first column, in the first paragraph, line 10, "40" is corrected to read "400".

8. On page 60739, in the first column, in the second full paragraph, in the seventh line from the bottom "(Ref.)" is corrected to read "(55 FR 29487)"; in the fourth line from the bottom "(Ref.)" is corrected to read "(56 FR 12932)"; in the third column, in the second full paragraph, line 14, the words "The issue of" are removed and the words "Another major issue, the relationship of" are added in their place, and in line 15, a comma is added after the word "cancer".

9. On page 60740, in the first column, in the second full paragraph, line 15, the words "be made" are added after the word "must".

10. On page 60742, in the third column, in Reference 3, "Hypertension" is corrected to read "*Hypertension*"; in Reference 11, line 3, the word "Apolipoprotein" is removed; and in line 4, "Apol ipoprote in" is corrected to read "Apolipoprotein".

11. On page 60743, in the third column, Reference 54, is corrected to read as follows:

54. Grundy, S. and G. L. Vega, "Plasma Cholesterol Responsivenes to Saturated Fatty Acids," *American Journal of Clinical Nutrition*, 47:822–824, 1988.

12. On the same page, in Reference 61, the author's name "Hegsted, M. D." is corrected to read "Hegested, D. M."; in Reference 62, the author's name "J. S. Charnoci" is corrected to read "J. S. Charnock".

13. On page 60744, in the second column, in Reference 86, "Intervention Metabolism" is corrected to read "Intervention, *Metabolism*.

14. On page 60745, in the first column, in Reference 104, "Cholesterol Physiological Reviews" is corrected to read "Cholesterol, *Physiological Reviews*,"; in the third column, in Reference 145, "325:462–6" is corrected to read "325:461–466".

15. On page 60746, in the first column, Reference 152 was inadvertently omitted and is added to read as follows:

152. Crane, N., "Lipids and Cardiovascular Disease—Food that Would and Would Not Qualify for a Health Claim," Memo to FDA File, References for Food Labeling: Health Claims; Lipids and Cardiovascular Disease: Proposed Rule, October 23, 1991.

16. On page 60748, in Table 1, in the "Results" column in the second entry, line 9, the word "reduction" is corrected to read "increase".

17. On page 60749, in Table 1, in the "Duration" column, in the first entry, "Cross-sectional" is corrected to read "N/A".

18. On page 60750, in Table 1, in the "Study Design" column, in the second entry, line 3, the word "werum" is corrected to read "serum"; and in the "Results" column, in the first entery, line 11, "(<5.16 mml/l)" is corrected to read "(<5.16 mmol/l)".

19. On page 60751, in Table 1, in the "Results" column, in the first entry, line 10, "1090" is corrected to read "1909".

20. On page 60753, in Table 2, in the "Assessment/comments" column, in the first entry, lines 2–3, "ND/DIDDM" is corrected to read "ND/NIDDM groups".

21. On page 60754, in Table 2, in the "Method/test/dose" column, a sentence was inadvertently omitted and is added to the end of the first entry to read as follows: "Diets enriched in MUFA and PUFA compared; 17% of calories derived from either MUFA or PUFA; SFA concentration identical in two diets."; and an entry for Blankenhorn, which was inadvertently omitted, is added after the firt entry to read as follows:

BILLING CODE 4160-01-M

Reference	Study design	Study population	Duration	Method/test/dose	Results	Assessment/comments
*	*	*	*	*		
Blankenhorn et al. 1990 (Ref. 7)	Prospective analysis of random, blind controlled angiographic clinical trial.	162 (82 placebo) subjects of cholesterol lowering atherosclerosis study (CLAS); men 40-59 years old with progressive atherosclerosis non-smokers, diet counseled.	N/A	Angiographic analyses of atherosclerotic designs.	Increased consumption of total fat and PUFA was associated with an increase in new lesions. Increase intake of lauric, oleic and linoleic, significantly increased risk. Those with no new lesions consumed more low fat meats, low fat dairy products. Authors suggested substitutions of protein and carbo for total fat, SFA and not PUFA and MUFA. In addition, transport and metab of UFA are different in early stages of atherogenesis as compared with late stages because diet FA can influence a variety of arterial wall processes.	Angiographic examination done well with 2 experts viewing simultaneously, blind, duplicated samples.
*	*	*	*	*		

BILLING CODE 4160-01-C

22. On the same page, in Table 2, in the "Method/test/dose" column, in the fourth entry, lines 8–9, "American Heart Association" is added before the word "diet," and the following text, which was inadvertently omitted, is added after the word "diet" to read as follows: "Actual dietary SFA consumed was between 9 and 11% of calories and cholesterol was between 211 and 288 mg/day. Diets assessed by 3-day food records prior to study and at 12 months."; in the "Results" column, in the third entry, in line 10, "APO I" is corrected to read "apo I"; and in lines 15–16, the words "LPL decreased 23% HL decreased 17%" is corrected to read "Lipoprotein lipase (LPL) decreased 23% and hepatic lipase (HL) decreased 17%".

23. On page 60755, in Table 2, in the "Method/test/dose" column, in the third entry, "High Fat diet vs Low Fat diet Lovastatin (40 mg/day) (drug)." is corrected to read "High fat diet (total fat 43% and SFA 18.9% of calories) and low fat diet (total fat 25% and SFA 8% of calories); Lovastatin (40 mg/day) (drug).".

24. On page 60756, in Table 2, in the "Method/test/dose" column, in the first entry, line 2, the words "1. PUFA enriched" is corrected to "1. PUFA enriched (Saf oil); in line 3, "2. MUFA enriched PUFA Saf oil MUFA O oil." is corrected to read "2. MUFA enriched (O. oil). SFA was 8.3% and cholesterol was 152 mg/day in both diets. MUFA concentration in PUFA enriched diet was 8.9% and 14% in MUFA enriched diet."; in the second entry, after the last line, the following text, which was inadvertently omitted, is added to read as follows: "Total fat was 29%, MUFA was 7.5% of calories, respectively; ratio of PUFA to SFA was 1.5."; in the "Results" column, in the third entry, line 13, the word "increase" is corrected to read "decrease".

25. On page 60757, in Table 2, in the "Reference" column, in the second entry, "(Ref. 53)" is corrected to read "(Ref. 54)"; in the third entry, "(Ref. 54)" is corrected to read "(Ref. 53)"; in the "Method/test/dose" column, the third entry is corrected to read as follows: "Solid Food diets. Diet 1. High SFA-high cholesterol (Fat 40%, SFA 19%, MUFA 15%, PUFA 6% of calories, cholesterol 900 mg/day). Diet 2. High MUFA/low cholesterol (Fat 40%, SFA 7%, MUFA 27%; PUFA 6% of calories, cholesterol 200 mg/day). Diet 3. High carbo-low fat (Fat 20%, SFA 7%, MUFA 7%, PUFA 6%, cholesterol 200 mg/day)."; and in the "Results" column, in the third entry, line 8, "col" is corrected to read "chol".

26. On page 60758, in Table 2, in the "method/test/dose" column, in the second entry, lne 5, "chol' eggs" is corrected to read "chol=eggs"; in the "Results" column, in the second entry, line 3, "apo 8" is corrected to read "apo B".

27. On page 60760, in Table 2, in the "Method/test/dose" column, in the third entry, the following text, which was inadvertently omitted, is added after the last item: "Pre and post test diets, fat provided by mixture of fats (MF). Fat composition of diets as follows: Diet 1 (Canola >MUFA): SFA 5%, MUFA 20%, and PUFA 10% of calories. Diet 2 (Sunflower >PUFA): SFA 7%, MUFA 7%, and PUFA 22% of calories. Diet 3. MF: SFA 14%, MUFA 15% and PUFA 7% of calories."

28. On page 60762, in Table 2, in the "Study design" column, in the third entry, line 3, "lips" is corrected to read "lipids"; in the "Method/test/dose" column, in the second entry, the following text, which was inadvertently omitted, is added after the word "legumes": "Fat was 33.3% of calories, PUFA/SFA ratio was 0.45, and cholesterol was 300 mg/day."; and in the "Results" column, in the third entry, line 10, "ad" is corrected to read "and".

29. On page 60783, in Table 2, in the "Reference" column, in the first and second entries, "199" is corrected to read "1990" and in the second entry, "Rifail" is corrected to read "Rifai"; in the "Assessment/comments" column, in the first entry, line 5, the word "profession" is corrected to read "progression"; in the same column, in the third entry, line 11, "A–1" is corrected to read "A1".

30. On page 60764, in Table 2, in the "Method/test/dose" column, in the first entry, the following text, which was inadvertently omitted, is added after the word "Sun-MUFA": "Fat was 37 to 43% of calories in all diets. Fat composition of diets was as follows: Diet 1. SFA 21%, MUFA 14%, and PUFA 5% of calories; Diet 2. SFA 7%, MUFA 28%, and PUFA 19% of calories; and Diet 3. SFA 8%, MUFA 14%, and PUFA 19% of calories."

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–4728 Filed 3–5–92; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 5, 20, 100, 101, 105, and 130

[Docket No. 91N–0219]

RIN 0905–AD08

Regulatory Impact Analysis of the Proposed Rules To Amend the Food Labeling Regulations; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Regulatory impact analysis statement; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the regulatory impact analysis statement that appeared in the **Federal Register** of November 27, 1991 (56 FR 60856), which presented the regulatory impact analysis (RIA) that FDA had prepared under Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354) on the costs and benefits of the food labeling regulations that the agency is currently proposing to amend. The document was published with some editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard A. Williams, Jr., Center for Food Safety and Applied Nutrition (HFF–303), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202–485–0271.

In FR Doc. 91–27171, appearing on page 60856 in the **Federal Register** of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60860, Table 1 is corrected by revising the last entry and adding two additional entries to read as follows:

TABLE 1.—INDUSTRIES AFFECTED BY LABELING REGULATIONS

SIC	Industry name	(Phase I regulations) Standard foods, ingredients, and colors labeling	(Phase I regulations) Percent juice labeling	(Phase I regulations) Raw fruit, vegetables, and fish labeling	(Phase II regulations) Mandatory nutrition labeling, format, nutrient content claims
*	* * * *	*	*	*	
2099	Food preparations, nec [1]	X		X	X
2834	Dietary supplements				X
5411–99	Grocery stores			X	

[1] Not elsewhere classified.

2. On page 60871, Table 13, is corrected to read as follows:

TABLE 13.—ESTIMATED HEALTH EFFECTS [1] (OVER 20 YEARS)

	Cases avoided or life-years gained	Total annual cases
Cancer	35,179	500,000
CHD	4,028	514,000
Deaths avoided	12,902	
Life-years gained	80,930	

[1] Uses lagtimes of 2 and 10 years for the occurrence of CHD and cancer, respectively following a diet change.

3. On page 60871, in column 2, Table 14, the entry "Prostate cancer" is corrected to read "Prostate/breast cancer".

4. On page 60876, in column 2, in the last paragraph, line 5, "3.6 billion" is corrected to read "between $3.6 billion and $21 billion".

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–4729 Filed 3–5–92; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 101

[Docket No. 91N–0344]

RIN 0905–AD08

Food Labeling; Use of Nutrient Content Claims for Butter; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that would permit the use of nutrient content claims ("descriptors") that are defined by regulations in 21 CFR part 101 to be made for butter (November 27, 1991, 56 FR 60523). The document was published with some editorial errors. This document corrects those errors.

DATES Written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Shellee A. Davis, Center for Food Safety and Applied Nutrition (HFF–414), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–485–0112.

In FR Doc. 91–27158, appearing on page 60523 in the **Federal Register** of Wednesday, November 27, 1991, the following correction is made:

On page 60525, in the first column, in the last paragraph, line 1, "(3)(b)(1)(a)(viii)" is corrected to read "(3)(b)(1)(A)(viii)"; and in the third column, in the first paragraph, in the fourth line from the bottom, quotation marks are added before the word "Contains".

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–4730 Filed 3–5–92; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Parts 5, 101, and 105

[Docket No. 91N–0384]

RIN 0905–AD08

Food Labeling: Nutrient Content Claims, General Principles, Petitions, Definition of Terms; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that proposed to provide general principles and definitions for nutrient content claims and to provide for their use on food labels that appeared in the **Federal Register** of November 27, 1991 (56 FR 60421). The document was published with some editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may be issued based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Center for Food Safety and Applied Nutrition (HFF–312), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–485–0229.

In FR Doc. 91–27150, appearing at page 60421, in the **Federal Register** of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60424, in the second column, in line 21, "§ 101.13(a)" is corrected to read "§ 101.13(b)(3)".

2. On page 60425, in the first column, in the second full paragraph, in the third line from the bottom, "§ 101.13(a)(1)" is corrected to read "§ 101.13(g)(1)".

3. On page 60428, in the first column, in the fifth paragraph, the last sentence in the quoted material is corrected to read "In addition, section 403(a) of the act will continue to prohibit brand names that constitute false and misleading labeling, irrespective of whether the brand name was exempt under this provision."

4. On page 60429, in the first column, in line 4, the word " 'low." is corrected to read " 'low' "; in the second column, in the third full paragraph, in line 1, "section IV" is corrected to read "section V".

5. On page 60431, in the second column, in line 10, "0.5 g" is corrected to read "0.3 g"; and in the first full paragraph, line 11, "§ 101.62(d)(1)(i)(8))" is corrected to read "§ 101.62(d)(1)(i)(B))".

6. On page 60433, in the first column, in the third full paragraph, in line 11, "§ 101.60(b)(1)(ii)" is corrected to read "§ 101.61(b)(1)(iii)"; and in the second column, in the second full paragraph, in line 2, the words "to allow" are removed.

7. On page 60436, in the second column, in the second full paragraph, in line 11, "§ 101.60(c)" is corrected to read "§ 101.60(c)(1)".

8. On page 60437, in the first column, in the second full paragraph, in line 6, "§ 101.60(c)(1)(i)" is corrected to read "§ 101.60(c)(1)(ii)"; in the second column, in the third full paragraph, in line 11, the words " 'sugar free,' " are corrected to read "'sugars free' "; in the third column, in the first full paragraph, the second and third sentences are removed; and in the second full paragraph, lines 3 and 4 are corrected to read "stated its position concerning the term 'no sucrose,' saying that its".

9. On page 60439, in the first column, in the second full paragraph, in line 9, "(Ref. 33)" is corrected to read "Ref. 26)".

10. On page 60441, in the first column, in line 1, "§ 101.61(b)(4)(iii)" is corrected to read "§ 101.61(b)(4)(ii)"; in line 17, "§ 101.61(b)(2)(iii)" is corrected to read "§ 101.61(b)(2)(ii)"; in the third column, in the third full paragraph, in line 2, "§ 101.61(b)(2)(ii)" is corrected to read "§ 101.61(b)(2)(i)"; and in line 6, "§ 101.61(b)(4)(ii)" is corrected to read "§ 101.61(b)(4)(i)".

11. On page 60442, in the first column, in the second full paragraph, in line 15, "§ 105.66(c)(1)(i)" is corrected to read "§ 105.66(c)(1)(ii)".

12. On page 60447, in the first column, in the first full paragraph, in line 5, the word "changes" is corrected to read "claims"; in the third full paragraph, in line 2, "§ 101.13(j)(2)(iii)" is corrected to read "§ 101.13(j)(3)"; and in the second column, in the second full paragraph, in the second line from the bottom, the words "of the 1990 amendments" are added before the word "requires".

13. On page 60452, in the third column, in the fourth paragraph, in line 8, the word "sugar" is corrected to "sugars".

14. On page 60454, in the third column, in the second full paragraph, beginning in line 5, the words "that .reduced' and 'light." are corrected to read "that 'reduced' and 'light' "; and in the fourth full paragraph, in the last line, "201(a)" is corrected to read "201(n)".

15. On page 60457, in the first column, in the first paragraph, in the last line, the calculation reading "4.75×2.8=13.5 g.)" is corrected to read "4.75 (19 percent of the DRV) × 2.8=13.5 g.)".

16. On page 60459, in the third column, in the second full paragraph, in line 2, the words "in pursuing this end" are removed; and in line 12, "3(b)(2)(A)(iii)" is corrected "3(b)(1)(A)(iii)".

17. On page 60460, in the second column, in the fifth full paragraph, in line 2, the words "of the act" are added before the word "requires"; and in the third column, in the first full paragraph, in line 14, the word "etitioner" is corrected to read "petitioner".

18. On page 60461, in the third column, in the first full paragraph, in line 7, the word "nsleading" is corrected to read "misleading".

19. On page 60466, in the second column, in the first full paragraph, in line 1, the word "foods" is added after "ESL".

20. On page 60468, in the third column, in Reference 9, add "*Journal of Nutrition Education*" before "p. 51"; and in Reference 16, "Virginia Wilkening, February 12, 1991" is corrected to read "J. S. Benson, July 11, 1990."

21. On page 60469, in the first column, Reference 26 is corrected to read as follows:

26. Joint Food and Agriculture Organization/World Health Organization Food Standards Program, "Codex Standards For Foods For Special Dietary Uses Including Foods For Infants And Children And Related Code of Hygienic Practice," Codex Alimentarius Commission, Vol. IX, 1st ed., p.3, Rome, 1982.

22. On the same page, in the first column, in Reference 36, in line 3, the word "Service" is corrected to read "Serving"; in the second column, in Reference 46, in line 1, "0708" is corrected to read "070B"; and in Reference 52, in line 1, the word "Ledding" is corrected to read "Lidding".

§ 101.13 [Corrected]

23. On page 60470, in § 101.13 *Nutrient content claims—general principles*, in paragraph (j)(2)(i), in line 4, the word "labeling" is corrected to read "label" the first time it appears; in paragraph (j)(2)(iii), in line 1, "(iii)" is corrected to read "(3)"; on page 60471, in column 1, in paragraph (n), in line 2, the word "claim" is corrected to read "claims" and in line 4, the word "the" is added before the word "analytical"; and in paragraph (o)(7), in the last line, "§ 101.50(h)" is corrected to read "§ 101.69(o)".

§ 101.54 [Corrected]

24. On page 60471, in § 101.54 *Nutrient content claims for "source," "high," and "more"*, in paragraph (c)(1), beginning on line 7, the phrase "of the (RDI) or the (DRV)" is corrected to read "of the RDI or the DRV".

§ 101.60 [Corrected]

25. On page 60473, in § 101.60 *Nutrient content claims for the calorie content of foods*, in paragraph (b)(2) introductory text, in the last line, "§ 101.13(1)" is corrected to read "§ 101.13(l)"; in paragraph (b)(3) introductory text, in line 4, "§ 101.13(1)" is corrected to read "§ 101.13(l)"; in paragraph (b)(4), beginning in line 3, the phrase "to describe a food, except mealtype products as defined in § 101.13(1)" is corrected to read "on the label or labeling of a food, except meal-type products as defined in § 101.13(l)"; in paragraph (b)(5), the phrase "including meal type products as defined in § 101.13(1)," is corrected to read "except meal-type products as defined in § 101.13(l),"; and paragraph (b)(6), which was inadvertently omitted is added to read as follows:

(6) A comparative claim using the term "fewer" may be used on the label or labeling of meal-type products as defined in § 101.13(l), provided that:

(i) The product contains at least 25 percent fewer calories, with a minimum reduction of more than 105 calories per

reference amount customarily consumed, where appropriate, and per labeled serving size, than the reference food that it resembles and for which it substitutes as defined in §101.13(j)(1)(i), (j)(1)(ii), and (j)(1)(iii); and

(ii) Meets the requirements of paragraph (b)(5)(ii) of this section.

26. On the same page, the heading for paragraph (c)(1) is corrected to read as follows:

(c) * * * (1) *Use of terms such as "sugars free," "free of sugars," "no sugars," "zero sugars," "trivial source of sugars," "negligible source of sugars," or "dietarily insignificant source of sugars."*

27. On the same page, in paragraph (c)(4), in line 3, the word "meal type" is corrected to read "meal-type".

§ 101.61 [Corrected]

28. On page 60474, in § 101.61 *Nutrient content claims for the sodium content of foods*, in paragraph (b)(1)(ii), the word "sodium" is corrected to read "salt" the first time it appears; in paragraph (b)(2) introductory text, in line 4, the word "mealtype" is corrected to read "meal-type".

§ 101.69 [Corrected]

29. On page 60475, in § 101.69 *Petitions for nutrient content claims*, in paragraph (m)(3), in the second line from the bottom, "paragraph (e)" is corrected to read "paragraph (g)"; and on page 60476, in paragraph (n)(1), in paragraph "B.", in line 5, the word "indequate" is corrected to read "inadequate".

30. On page 60477, in the first column, in paragraph (o)(2)(ii), lines 2 and 3 are corrected to read "e.g., it lacks any of the data required by this part, it presents"; in paragraph (o)(3), in the second line from the bottom, "paragraph (e)" is corrected to read "paragraph (g)".

§ 101.95 [Corrected]

31. On page 60477, the section heading for § 101.95 is corrected to read as follows:

§ 101.95 "Fresh," "freshly ," "fresh frozen," "frozen fresh".

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–4731 Filed 3–5–92; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 101

[Docket No. 91N–0099]

RIN 0905–AB67

Food Labeling: Health Claims; Dietary Fiber and Cardiovascular Disease; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the **Federal Register** of November 27, 1991 (56 FR 60582). The document proposed not to authorize the use on foods, including dietary supplements, of health claims relating to the association between dietary fiber and cardiovascular disease. The document was published with some editorial errors. This document corrects those errors.

DATES: Written comments by February 25, 1992. The agency is proposing that any final rule that may issue based upon this proposal become effective 6 months following its publication in accordance with requirements of the Nutrition Labeling and Education Act of 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joyce J. Saltzman, Center for Food Safety and Applied Nutrition (HFF–265), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0316.

In FR Doc. 91–27165, appearing on page 60582 in the **Federal Register** of Wednesday, November 27, 1991, the following corrections are made:

1. On page 60586, in the second column, in the first paragraph, in the third line from the bottom, "per 1,000 kcal" is corrected to read "g per 1,000 kcal"; and in the second paragraph, in the second line, "Implication" is corrected to read "Implications".

2. On page 60588, in the first column, in the second full paragraph, in the sixth line, "3 soluble" is corrected to read "3 g soluble"; and in the fourth full paragraph, in the seventh line, "(27" is corrected to read "(ages 27".

3. On page 60589, in the second column, in the third full paragraph, in the fourth line from the bottom, the word "was" is corrected to read "were".

4. On page 60590, in the first column, in the third full paragraph, in the third line, the word "isaqbol" is corrected to read "isagbol".

5. On page 60591, in the first column, in the second paragraph, in the fourth line, "Ref. 75" is corrected to read "Ref. 74"; in third paragraph, in the 17th line, "Ref. 74" is corrected to read "Ref. 73"; in the fourth paragraph, in the second line, "Ref. 73" is corrected to read "Ref. 72"; in the second column, in the second line, "Ref. 73" is corrected to read "Ref. 72"; and in the first full paragraph, in the eighth line from the bottom, "Ref. 72" is corrected to read "Ref. 51".

6. On page 60594, in the third column, in Reference 38, "Stamler, J.," should appear after "38." and "Population Studies in" should appear before the word "Nutrition".

7. On page 60595, in the third column, Reference 72 is removed and References 73, 74, and 75 are correctly redesignated as References 72, 73, 74, respectively.

Dated: February 21, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92–4732 Filed 3–5–92; 8:45 am]

BILLING CODE 4160–01–M

federal register

Friday
March 6, 1992

Part III

Department of Health and Human Services

Health Care and Financing Administration

42 CFR Parts 417, et al.

Medicare and Medicaid Programs; Advance Directives; Interim Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 417, 431, 434, 483, 484, 489 and 498

[BPD-718-IFC]

RIN 0938-AF50

Medicare and Medicaid Programs; Advance Directives

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

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule amends the Medicare and Medicaid regulations governing provider agreements and contracts to establish requirements for States, hospitals, nursing facilities, skilled nursing facilities, providers of home health care or personal care services, hospice programs and prepaid health plans concerning advance directives. An advance directive is a written instruction, such as a living will or durable power of attorney for health care, recognized under State law, relating to the provision of health care when an individual's condition makes him or her unable to express his or her wishes. The intent of these provisions is to enhance an individual's control over medical treatment decisions.

This rule implements sections 4206 and 4751 of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), Public Law 101-508.

DATES: *Effective date:* This interim final rule is effective on April 6, 1992. However, statutory requirements at sections 1819(c)(1)(E), 1833(r), 1866(a)(1)(Q), 1876(c)(8), and 1891(a)(6) of the Social Security Act (the Act) have an effective date of December 1, 1991, and are effective on that date regardless of the effective date of this interim final rule.

Comment date: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on May 5, 1992.

ADDRESSES: Mail comments to the following address:

Health Care Financing Administration,
Department of Health and Human Services,
Attention: BPD-718-IFC,
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 Avenue, SW.,
Washington, DC 20201; or
Room 132, East High Rise Building,
6325 Security Boulevard,
Baltimore, Maryland 21207.

Due to staffing and resource limitations, we cannot accept audio, video or facsimile (FAX) copies of comments. In commenting, please refer to file code BPD-718-IFC. Written 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 Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7890).

Organizations and individuals desiring to submit comments on the reporting requirements discussed under the section on "Collection of Information Requirements" of this preamble should direct them to the Health Care Financing Administration at one of the addresses cited above, and to the Office of Information and Regulatory Affairs, Attention: Laura Oliven, Office of Management and Budget, New Budget, New Executive Office Building (Room 3002), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Thomas Hoyer, (301) 966-4607.

SUPPLEMENTARY INFORMATION:

I. Background

Advances in medical treatment that permit life to be prolonged through the use of progressive medical equipment have raised complex legal and ethical issues relating to the rights of patients in making decisions as to whether such treatments should be used or, if used, should be continued. The issues raised generally fall within two categories: (1) What is the range of choices available to a patient with respect to treatment modalities; and (2) How can these choices be exercised, for example, in advance by means of a directive prepared by the individual before the need for treatment arises, or by another person on the individual's behalf when the individual no longer can make such determinations.

Because of the rising concern surrounding these issues, more and more attention is being focused on increasing the individual's control over his or her decisions concerning medical treatment through the use of advance directives.

Advance directives are written instructions recognized under State law relating to the provision of health care when individuals are unable to communicate their wishes regarding medical treatment. The advance directive may be a written document authorizing an agent or surrogate to make decisions on an individual's behalf (a durable power of attorney for health care), a written statement (a living will), or some other form of instruction recognized under State law specifically addressing the provisions of health care. The various legal devices that exist serve to enhance the ability of individuals to have their desires carried out in the event that they become unable to make their own medical treatment decisions.

Most States have enacted legislation defining a patient's rights to make decisions regarding medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives. However, prior to the enactment of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), Public Law 101-508, there were no requirements relating to advance directives under Federal Medicare or Medicaid laws.

II. Legislative Amendments

A. Medicare Provisions

Section 1866 of the Act requires that providers of services under Medicare enter into an agreement (i.e., provider agreements) with the Secretary and comply with the requirements specified in that section. Section 4206(a) of OBRA '90 amended section 1866(a)(1) of the Act relating to Medicare provider agreements by adding a new subparagraph (Q), which specifies that to participate in the Medicare program, hospitals, skilled nursing facilities, home health agencies, and hospice programs must file an agreement with the Secretary to comply with the statutory requirements in new subsection 1866(f) of the Act concerning advance directives. Section 1866(f)(3) of the Act defines an advance directive as a written instruction, such as a living will or durable power of attorney for health care, recognized under State law, relating to the provision of health care when an individual is incapacitated. The State law may either be established by statute or as recognized by the courts of the State.

Section 1866(f)(1) of the Act specifies that a provider of services or prepaid or eligible organization (i.e., a health maintenace organization (HMO), competitive medical plan (CMP) as defined in section 1876(b) of the Act, or a health care prepayment plan (HCPP) as defined in section 1833(a)(1)(A) of the Act) must maintain written policies and procedures on advance directives with

respect to all adult individuals receiving medical care through the provider or organization. The provider or organization must provide written information to each individual concerning an individual's rights under State law to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate, at the individual's option, advance directives. The provider or organization must also furnish each individual with the written policies of the provider or organization with respect to the implementation of advance directives.

Section 1866(f)(2) of the Act requires that this written information must be provided at the time an individual is admitted as an inpatient to a hospital, at the time of admission to a skilled nursing facility, before an individual comes under the care of a home health agency, at the time of initial receipt of hospice care, or at the time of enrollment of the individual with an eligible prepaid health care organization or HCPP.

Section 1866(f)(1) of the Act contains provisions that require the provider or organization to document in the individual's medical record whether or not the individual has executed an advance directive, not to discriminate against individuals based on whether or not they have executed an advance directive, to ensure compliance with State law, and to provide for education of staff and community on issues concerning advance directives.

Section 4206(b) of OBRA '90 amended section 1876(c) of the Act by adding a new paragraph (8), which provides that the contract between the Secretary and an eligible organization must provide that the organization meets the advance directives requirements specified in section 1866(f) of the Act.

Section 4206(b) of OBRA '90 also amended section 1833 of the Act by adding a new subsection (r), which specifies that the Secretary may not provide for payment under the Medicare program to an organization unless the organization provides assurances satisfactory to the Secretary that the organization meets the requirements relating to the maintenance of written policies and procedures regarding advance directives in section 1866(f) of the Act.

Section 4206(c) of OBRA '90 provides that sections 4206 (a) and (b) do not prohibit the application of a State law that allows for an objection on the basis of conscience for any health care provider or any agent of such provider which, as a matter of conscience, cannot implement an advance directive. If this is the case, we are requiring that the provider include a clear and precise explanation of this conscientious objection in its written policies and procedures that must be furnished to all adult individuals.

Section 4206(d) makes conforming amendments to sections 1819(c)(1) and 1891(a) of the Act, requiring that skilled nursing facilities and home health agencies, respectively, comply with the advance directives requirements in section 1866(f) of the Act. Enforcement procedures are explained in section D of this preamble.

B. Medicaid Provisions

Section 1902 of the Act sets forth State plan requirements for medical assistance that must be submitted to the Secretary for approval. Section 4751 of OBRA '90 amended section 1902 of the Act relating to requirements for State plans by adding provisions concerning advance directives comparable to the Medicare provisions in section 4206 of OBRA '90. Specifically, section 4751 of OBRA '90 amended section 1902 of the Act by adding new paragraph (57) to subsection (a) and a new subsection (w), which requires all hospitals, nursing facilities, providers of home health care and personal care services, hospices, or health maintenance organizations (as defined in section 1903(m)(1)(A) of the Act) that are receiving funds under a State plan to maintain written policies and procedures to inform, educate, and distribute written information on advance directives to all adult individuals receiving medical care by or through the provider or organization, in the manner described in the law.

Section 4751 also amended section 1902 of the Act by adding paragraph (58) to subsection (a) which requires that the State, acting through a State agency, association, or other private non-profit entity, develop a written description of the State law concerning advance directives to be distributed to Medicaid providers and health maintenance organizations.

Section 4751(b) makes conforming amendments to sections 1903(m)(1)(A) and 1919(c)(2) of the Act. These requirements are to be enforced under applicable State plan provisions.

C. Public Information Requirements

Section 4751(d) of OBRA '90 imposes an additional requirement on the Secretary to conduct a public education campaign on advance directives. This requirement is being pursued separately by HCFA.

D. Enforcement Procedures

For hospitals and hospices, Medicare enforcement procedures will be conducted in the same way provider agreements are enforced. That is, the provider agreement obligates a provider to comply with the applicable requirements of title XVIII and includes specific provisions. The Secretary may refuse to enter into a provider agreement or may refuse to renew or may terminate an agreement after the Secretary: (1) Determines that the provider fails to comply substantially with the provisions of the agreement or with the provisions of title XVIII and the implementing regulations; (2) Determines that the provider fails substantially to meet the applicable provisions of section 1861 of the Act (definition of services, institutions, etc.,); or (3) Has excluded the provider from participation under sections 1128 or 1128A of the Act (exclusion and civil monetary penalty provisions).

On-site surveys of providers are performed by State agency or Federal surveyors (generally on an annual basis) to determine compliance with the requirements or conditions of participation. However, providers are assumed to be in compliance with the other requirements of the provider agreement. HCFA does not routinely seek information to confirm that the provider is complying with the other requirements of the provider agreement. If information concerning a provider's compliance with the agreement of the provisions of title XVIII is needed, it may be obtained in several ways, including the performance of an on-site survey.

Each hospital and hospice provider will be informed of its obligation to comply with the advance directive provisions and that these provisions are required as a part of its provider agreement with HCFA. Compliance with these provisions is necessary for continued participation in the Medicare and Medicaid programs. These providers will be required to inform HCFA, in writing, of the date they achieve compliance. For hospices, and hospitals not accredited by the Joint Commission on Accreditation of Healthcare Organizations (Joint Commission) and/or the American Osteopathic Association (AOA), compliance will be verified as part of the routine survey process.

Periodic Federal recertification surveys are not conducted in hospitals that are accredited by the Joint Commission and/or AOA because such hospitals are "deemed" to meet

Medicare's certification requirements. However, since accredited hospitals are not "deemed" to meet the utilization review requirements and the advance directive requirements, we do investigate complaints and conduct sample validation surveys at these hospitals. We will verify compliance with the advance directive provisions at accredited hospitals in response to complaints and at the time of these sample validation surveys.

For skilled nursing facilities and home health agencies, enforcement procedures will employ the Federal on-site survey process. State agency or Federal surveyors are responsible for evaluating compliance with the Medicare requirements or conditions of participation. These surveys are generally conducted on an annual basis. Therefore, State agency or Federal surveyors would be able to evaluate on-site compliance with the advance directive requirements through the use of the survey protocol for skilled nursing facilities and home health agencies.

A facility found out of compliance with the provider agreement may be terminated by HCFA. HCFA must give the provider notice of termination at least 15 days before the effective date of termination of the provider agreement. This notice must state the reasons for, and effective date of termination and explain the extent to which services may continue after that date. A provider may appeal the termination of its provider agreement in accordance with part 498.

Under Medicaid, a provider must enter into an agreement with the State Medicaid agency. State agency surveyors or Federal surveyors (during a validation or "look-behind" survey) perform a function similar to that under Medicare. However, the State Medicaid agency is responsible for assuring compliance with the Medicaid provider agreement and the advance directive requirements contained therein.

For eligible organizations, this provision will be enforced as a contract requirement. Organizations must comply with the advance directives requirements in order to receive a contract. Failure to continue compliance with these requirements, as determined by HCFA during routine monitoring reviews, may result in termination of the contract.

Health care prepayment plans also must comply with the advance directives requirements and must provide us with satisfactory assurances that they are in compliance with these requirements in order to receive payment. Failure to continue compliance with these requirements, as determined by HCFA during routine monitoring reviews, may result in termination of a health care prepayment plan's agreement with HCFA.

E. Effective Dates

The amendments made by sections 4206 (a) and (d) of OBRA '90 pertaining to Medicare providers are effective with respect to services furnished on or after December 1, 1991.

The amendments made by section 4206(b) of OBRA '90 pertaining to prepaid and eligible organizations participating in the Medicare program (i.e., contracts with HMOs and CMPs under section 1876(b), and Medicare payments to organizations under section 1833(a)(1)(A) of the Act) are effective December 1, 1991.

The amendments made by section 4751 of OBRA '90 pertaining to the Medicaid program are effective with respect to services furnished on or after December 1, 1991.

III. Provisions of the Proposed Regulations

To implement the provisions of sections 4206 and 4751 of OBRA '90, we are requiring that all hospitals, skilled nursing facilities, nursing facilities, providers of home health care or personal care services, hospices, and prepaid health plans provide written information to each adult individual receiving medical care through the provider or organization concerning his or her rights under State law to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate, at the individual's option, advance directives. Under these regulations, the term "advance directive" is defined as a written instruction, such as a living will or durable power of attorney for health care, recognized under State law, relating to the provision of health care when the individual is incapacitated. These regulations do not require an individual to execute an advance directive prior to the provision of treatment and services. Furthermore, we note that these requirements do not apply to providers of outpatient hospital services.

The provider or organization must inform the individual, in writing, of State laws regarding advance directives; inform the individual, in writing, of the policies of the provider or organization regarding the implementation of advance directives, including a clear and precise explanation of a conscientious objection for any health care provider or any agent of such provider which, as a matter of conscience, cannot implement an advance directive; document in the individual's medical record whether or not the individual has executed an advance directive; educate staff on issues concerning advance directives; and provide for community education regarding advance directives.

Nothing in either the statute or this interim final rule addresses patient or provider rights or obligations concerning either notification or decisions regarding medical or non-medical care, except when the patient has left written instructions which become effective only after the individual becomes incapacitated. For example, this regulation neither creates nor affects requirements with respect to informed consent to medical care, determination of mental capacity, provision of medical care to minors, wills leaving property, or organ donation. These and many other significant subjects are not addressed under OBRA '90. The law has a narrow and explicit focus solely of the handling of written directives for medical care made by persons who later become incapacitated.

We do not intend, in these regulations, to prescribe the content and format of the written information to be provided to each adult individual. However, in connection with our technical assistance responsibilities to States in meeting the Medicaid requirements of the law, HCFA's Administrator sent a letter to each State Medicaid Director to which was attached a sample public information document for use in informing adult individuals about advance directives. This sample public information document is suggestive of what we believe an acceptable document should include. Providers choosing to use this sample should include information regarding an individual's rights under State law to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate, at the individual's option, an advance directive.

Alternatively, it would be consistent with the statute to develop considerably shorter discussion than that contained in the sample document. It would also be possible to use a short summary notice, several paragraphs rather than pages long, which notified the patient that a longer and more specific document was available upon request. However, the summary notice would have to cover the legally-required elements (e.g. describe the purpose and the concept of an advance directive, describe State law, and describe the provider's policy and procedures).

The material contained in the HCFA Administrator's information package, including the sample public information document, may be found in Appendix I of this preamble.

We are aware that State law on this issue is not always clear. For example, some States may have no statute regarding advance directives, or State law may be a matter of common law or institutional practice rather than a State statute. Additionally, pending litigation may affect the status of existing statutes or legal precedents in other States. A State statute may also be silent on a particular issue, such as whether a provider may decline to follow a directive to which it conscientiously objects. Such silence may not necessarily mean that the omitted action is prohibited. Providers should be careful not to reach such a conclusion absent authoritative interpretation of a particular State's written and unwritten law.

Nonetheless, Congress has mandated that, as of December 1, 1991, providers and organizations participating in Medicare and Medicaid must distribute the required materials that inform an individual of his or her right under State law to accept or refuse medical treatment. Providers and organizations should be aware that this requirement relates to current State law. Therefore, changes in State law, by statute or court case, must be incorporated into subsequent provider information packages. We specifically seek public comments on what would be a reasonable period of time within which such changes should be made.

Written information on advance directives must be provided to an individual upon each admission to a medical facility and each time an individual comes under the care of a home health agency or hospice. For example, if a person is admitted first as an inpatient to a hospital and then to a nursing home, both the hospital and the nursing home would be required to provide information on advance directives to the individual. If an individual is being transferred from a hospital to a nursing home, the hospital discharge planner may provide the information (including the nursing home's policies regarding the implementation of advance directives) on behalf of the nursing home in the course of coordinating the smooth transfer of the patient. However, the nursing home will still be responsible for documenting in the individual's medical record whether or not the individual has executed an advance directive.

If a patient is incapacitated at the time of admission and is unable to receive information (due to the incapacitating condition or a mental disorder) or articulate whether or not he or she has executed an advance directive, then the facility should give advance directive information to the patient's family or surrogate to the extent that it issues other materials about policies and procedures to the family of the incapacitated patient or to a surrogate or other concerned persons in accordance with State law. This does not, however, relieve the facility of its obligation to provide this information to the patient once he or she is no longer incapacitated or unable to receive such information.

As a part of the Medicaid requirements contained in section 4751 of OBRA '90, we are requiring in these regulations that each State, acting through a State agency, association, or other private nonprofit entity, develop a written description of the State law (i.e., statutory or otherwise recognized in the courts) concerning advance directives to be distributed by providers or organizations under the requirements of this section. Given the requirements in the Federal law, States have a wide range of options in describing State law and in prescribing informational materials for use by providers and organizations. For example, the State materials describing an individual's rights to accept or refuse medical treatment and the right to formulate an advance directive could include lengthy or extended requirements for executing an advance directive, or they could be a short, simple statement expressing the individual's rights concerning advance directives.

The following discussion reflects some possible approaches that States, providers, and organizations may choose to take in providing the required information and which we believe would produce results consistent with the statutory requirements. In accordance with the requirements of section 4751 of OBRA '90, States could require that Medicaid providers use the State-developed description of State law only. Alternatively, States could allow providers to incorporate the general information contained in the State-developed description of State law into the providers' own package of materials that include the providers' written policies regarding the implementation of an individual's rights. Although the statute does not specifically require that Medicare providers use the State-developed description of State law, we encourage States, providers, and organizations to work together to ensure that a complete and accurate description of State law is distributed consistently to all adult patients or residents.

As mentioned earlier, HCFA has provided technical assistance to the States, including the technical assistance information package released by HCFA's Administrator in September. Also in September, HCFA released a State Medicaid Manual issuance (HCFA–Pub. 45–2, Transmittal #73) concerning advance directive requirements to inform the States of their responsibilities in this area. Copies can be obtained by the general public by contacting the National Technical Information Service (NTIS), ORDER #PB88–952399. You may call to order at (703) 487–4630 or send a request to NTIS Subscription Department, 5285 Port Royal Road, Springfield, VA 22161.

Finally, we note that a number of other private entities have prepared pertinent documents that States may find helpful. HCFA's Administrator issued a press package that included a bibliography of these publications, as well as a list of organizations that have addressed the statutory requirement that providers disseminate information to adult individuals regarding their rights under State law to accept or refuse medical treatment and the right to formulate advance directives. These materials may be found at appendix II of this preamble.

The law requires that the existence of an advance directive be documented in an individual's medical record. We recognize, particularly in the case of prepaid health care organizations, that such documentation will occur when the medical record is created. Although the statute does not specifically require providers or organizations to have direct dialogue with each adult individual to ascertain whether he or she has executed an advance directive, we believe that this type of interaction is an acceptable method for obtaining this information.

Although it is acceptable that the patient be asked and respond to a specific question, we recognize that these procedures are not the only appropriate methods for obtaining the information needed to document medical records. Alternatives, such as community education campaigns, also may prove acceptable for obtaining this information. It is also acceptable for providers to include in preadmission materials a form, to be completed by the patient, that sets forth whether or not the patient has executed an advance directive. Such form, when completed and returned by the patient at the time of admission, would supply the provider the information needed to document the

medical record, or the form itself could be attached to such record. There are, however, issues with respect to whether these methods may impose too great a burden on the patient or may not result in eliciting the desired information from a sufficient number of patients. Therefore, we request comments on these and other methods of obtaining the information needed to document the medical record.

Concerning the requirement that a provider or organization provide for community education, there are several options available in order to accomplish this. For example, the provider or organization may use its community relations office as its vehicle to educate the community by incorporating the provisions of provider information and applicable State laws on advance directives in its existing publications. Alternatively, providers may simply opt to distribute to the community the same pamphlet developed specifically for its adult patients. The educational materials must inform the public of their rights under State law to make decisions concerning the receipt of medical care by or through the provider or organization; the right to formulate advance directives; and the provider or organization's implementation policies concerning advance directives. Whatever method is used, it must be in writing and subject to survey review for compliance with Federal requirements.

Under these regulations, the provider or organization cannot condition the provision of care or discriminate against an individual based on whether or not the individual has executed an advance directive. For example, all patients are generally entitled to the medically necessary care ordered by a physician which a provider, under normal procedures, would be required to furnish, and the care cannot be delayed or withheld because the individual has not executed an advance directive or the provider is waiting for an advance directive to be executed. However, once it is documented that an advance directive has been executed, then the directive takes precedence over the provision of the facility's normal procedures, to the extent required by State law.

As specified in the statute, we are requiring prepaid health care organizations to provide information on advance directives to enrollees at the time of enrollment. Organizations must give enrollees the advance directive material prior to the effective date of coverage. However, we encourage organizations to give enrollees the material as early as possible after the application for enrollment is received. We are clarifying this issue to avoid misunderstanding and confusion about the time when prepaid health care organizations must provide the required written information regarding advance directives to an adult individual.

We recognize that a prepaid health care organization may have contracts with a variety of providers (in order to assure widespread access to care), and that some of these providers may have policies with respect to advance directives that are more limited than others (e.g., a hospital exercising a reservation of conscience consistent with State law). In such cases, the prepaid health care organization could adopt a policy that embraces the variety of practices of its providers, and disseminate the information regarding those various practices to its enrollees as prescribed by this interim final rule. This information would be provided along with the written description of State law. On the other hand, the prepaid health care organization could simply note, in the material regarding State law and provider practices, that its providers have, in accordance with State law, varying practices regarding the implementation of an individual's advance directive. In this case, such varying practices must be made available to each adult individual selecting or receiving care from such providers.

Specifically, this regulation—

- Changes the title of part 489 to Provider and Supplier Agreements and adds a new subpart I to part 489 to include the requirements of section 1866(f) of the Act for Medicare and Medicaid providers pertaining to advance directives.
- Adds a new paragraph (d) to § 417.436, Membership rules for enrollees, to include the requirements of section 1866(f) of the Act for prepaid health care organizations, and cross-references these requirements in § 417.801, which specifies requirements for agreements between HCFA and health care prepayment plans.
- Adds a new § 431.20 to specify States' responsibility for developing a written description of the State law concerning advance directives to be distributed by providers and organizations under the requirements of part 489, subpart I and § 417.428(b).
- Cross-references the requirements in part 489, subpart I in § 417.472, which specifies the basic Medicare contract requirements; § 431.107, which specifies requirements for Medicaid provider agreements; § 483.10, which specifies resident rights as a requirement for long-term care facilities; § 484.10, which specifies patient rights as a condition of participation for home health agencies; and § 489.10, which specifies the basic requirements for Medicare provider agreements.
- Adds a new § 434.28 to subpart C of 42 CFR part 434, Contracts with HMOs and PHPs: Contract Requirements, to specify that a risk comprehensive contract with an HMO must comply with the requirements in part 489, subpart I.
- Adds a new paragraph (11) to § 498.3, which includes advance directives in the initial determinations that HCFA makes for appeals that affect participation in the Medicare program.

IV. Waiver of Notice of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking for a regulation to provide a period for public comment. However, we may waive that procedure if we find good cause that prior notice and comment are impractical, unnecessary, or contrary to public interest. In addition, section 4207(j) of OBRA '90 gives the Secretary authority to issue interim final regulations to implement the provisions of OBRA '90 as he deems necessary.

In order to establish our rules as quickly as possible to allow the provider community the greatest lead time to undertake this activity, and because of the statutory effective date for implementation of these provisions, we are asserting our privilege under section 4207(j) of OBRA '90 to issue these regulations as interim final rules with comment period. We are providing a 60-day comment period for public comment on the rules, and will respond to issues raised by commenters in any subsequent final rules.

V. Regulatory Impact Statement

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any final rule that meets one of the E.O. 12291 criteria for a "major rule"; that is, that would 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.

In addition, 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 final rule will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we do not consider States or individuals to be small entities.

These interim final rules amend the Medicare and Medicaid regulations governing priovider agreements and contracts by implementing certain changes made by OBRA '90. The changes establish requirements for States, hospitals, nursing facilities, skilled nursing facilities, providers of home health care or personal care services, hospice programs and prepaid health plans concerning advance directives.

Based on the discussions presented in this preamble, we have concluded that performing the functions necessary to meet the minimal requirements of this interim final rule, as required by the statute, would not cause a consequential expenditure of time and effort. Therefore, we have concluded that this is not a major rule and have not prepared a final regulatory impact statement under E.O. 12291 or a regulatory flexibility analysis under the RFA.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a final rule will have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that has fewer than 50 beds and is located outside a Metropolitan Statistical Area.

We have determined, and the Secretary certifies, that these interim final rules with comment period will not have a significant economic impact on the operations of a substantial number of small rural hospitals, and therefore have not prepared a rural hospital impact statement.

VI. Collection of Information Requirements

Sections 417.436(d)(iii), 489.102(a)(2), 417.801(b)(5), 431.107(b)(4), 434.28, 483.10(b)(8), and 484.10(c)(2)(ii) of this interim final rule contain information collection requirements that are subject to the Office of Management and Budget review under the Paperwork Reduction Act of 1980. These information collections require hospitals, nursing facilities, skilled nursing facilities, providers of home health care or personal care services, hospice programs and prepaid health plans to document in the medical record whether or not an advance directive. We estimate the collection burden for each provider or organization employee to be approximately three minutes per medical record. We estimate an overall total of 32,800 providers and organizations (approximately 6,740 hospitals; 990 hospices; 15,830 SNFs/NFs; 5,830 home health agencies; 3,100 personal care providers; and 310 prepaid health plans) to be affected by these information collections. We project that for fiscal year 1992, approximately 15 million individuals will use the services of these providers and organizations. Therefore, we estimate the overall collection burden to be 750,000 hours (15 million individuals × 3 minutes/record = 750,000 hours).

Section 431.20(b) requires States to submit State plan preprint amendments that contain a written description of its law(s) concerning advance directives. We estimate the information collection burden for the 50 States and 4 U.S. territories to be approximately 3 hours per amendment, with an overall burden of 162 hours (54 States and territories × 3 hours/amendment = 162 hours).

There are no reporting requirements associated with these information collections. A notice will be published in the **Federal Register** when approval is obtained. Other organizations and individuals desiring to submit comments regarding the estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should address their comments to the OMB official whose name appears in the "ADDRESSES" section of this preamble.

VII. Response to Public Comments

Because of the large volume of public comments that we usually receive on rules, we cannot acknowledge or respond to them individually. However, we will address all public comments received on this document by the date and time specified in the "DATES" section of this preamble in any subsequent final regulations.

Appendix I to the Preamble

September 5, 1991.

Under provisions of the Omnibus Budget Reconciliation Act of 1990, States are responsible for developing written descriptions of State law regarding an adult individual's right to make decisions concerning medical care. This includes the right to formulate advance directives, such as a living will or a durable power of attorney for health care.

A State, acting through a State agency, association, or other private, nonprofit entity, is required to develop a written description of the State law concerning advance directives. Beginning December 1, 1991, Medicare- and Medicaid-certified hospitals, nursing facilities, and other affected providers and organizations must give adults information on advance directives (see summary of the Federal statute enclosed).

Many States have already convened meetings between provider and consumer representatives and State officials to discuss ways in which to clearly and succinctly write a description of State law on advance directives. Some States already have drafts of those statements completed.

I would like to offer assistance to those States that have not begun the drafting process or that would like some technical assistance in this process. Enclosed is a paper on advance directives that will be part of our public education materials that the Health Care Financing Administration (HCFA) in coordination with the Social Security Administration and the Administration on Aging, will distribute to national news media and consumer publications, and through State and local area Agencies on Aging.

The paper answers basic questions about advance directives and raises the issue in a balanced way that makes clear several points. First, the law does *not* require an individual to execute an advance directive. Second, people can use advance directives to say "yes" to treatment that they want or to say "no" to any treatment that they do not want.

As your State develops its written description on advance directives, I hope that you keep in mind the need for individuals not only to be given basic definitions of terms used, but also to understand the range of options available to them, if they decide to execute an advance directive.

HCFA will also soon send you State Medicaid Manual instructions that will provide you guidelines in implementing the advance directive statutory provisions. If you need additional assistance on this important project in the coming weeks, please contact your HCFA Regional Administrator.

Sincerely,

Gail R. Wilensky,

Administrator.

Enclosures.

(Sample Public Information Document)

Advance Directives—The Patient's Right to Decide

All adult individuals in hospitals, nursing homes, and other health care settings have certain rights. For example, you have a right to confidentiality of your personal and medical records and to know what treatment you will receive.

You also have another right. You have the right to fill out a paper, known as an "advance directive." The paper says in advance what kind of treatment you want or do not want under special, serious medical conditions—conditions that would prevent you from telling your doctor how you want to be treated. For example, if you were taken to a hospital in a coma, would you want the

hospital's medical staff to know your specific wishes about decisions affecting your treatment?

This article answers some questions related to a new federal law taking effect December 1, 1991 that requires most hospitals, nursing facilities, hospices, home health care programs and health maintenance organizations (HMOs) to give you information about advance directives and your legal choices in making decisions about medical care. The law is intended to increase your control over medical treatment decisions.

The information in this article can help you make decisions in advance of treatment. Because this is an important matter, however, you may wish to talk to family, close friends, and your doctor *before* deciding whether you want an advance directive.

Finally, it is important to remember that state laws differ about the legal choices available to individuals for treatment options that can be honored by hospitals and other health care providers and organizations. Beginning December 1, 1991 these health care professionals should have information for you on your state's advance directive law.

What Is an Advance Directive?

Generally, an advance directive is a written statement, which you complete in advance of serious illness, about how you want medical decisions made. The two most common forms of advance directive are:

- a "Living Will"; and
- a "Durable Power of Attorney for Health Care."

An advance directive allows you to state your choices for health care or to name someone to make those choices for you, if you become unable to make decisions about your medical treatment. In short, an advance directive can enable you to make decisions about your future medical treatment. You can say "yes" to treatment you want, or say "no" to treatment you don't want.

What Is a Living Will?

A Living Will generally states the kind of medical care you want (or do not want) if you become unable to make your own decision. It is called a "living will" because it takes effect while you are still living.

Most states have their own living will forms, each somewhat different. It may also be possible to complete and sign a pre-printed living will form available in your own community, draw up your own form, or simply write a statement of your preferences for treatment. You may also wish to speak to an attorney or your physician to be certain you have completed the living will in a way that your wishes will be understood and followed.

What Is a Durable Power of Attorney for Health Care?

In many states, a "Durable Power of Attorney for Health Care" is a signed, dated, and witnessed paper naming another person, such as a husband, wife, daughter, son, or close friend, as your "agent" or "proxy" to make medical decisions for you if you should become unable to make them for yourself. You can include instructions about any treatment you want or wish to avoid. Some states have specific laws allowing a health care power of attorney and provide printed forms.

Which Is Better: A Living Will or a Durable Power of Attorney for Health Care?

In some states, laws may make it better to have one or the other. It may also be possible to have both, or to combine them in a single document that describes treatment choices in a variety of situations (ask your doctor about these) and name someone (called your "agent" or "proxy") to make decisions for you, should you be unable to make decisions for yourself.

Do I Have to Write an Advance Directive Under the New Law?

No. It is entirely up to you.

Can I Change My Mind After I Write a Living Will or Health Care Power of Attorney?

Yes. You may change or cancel these documents at any time in accordance with state law. Any change or cancellation should be written, signed, and dated in accordance with state law, and copies should be given to your doctor, or to others to whom you may have given copies of the original. In addition, some states allow you to change an advance directive by oral statement.

If you wish to cancel an advance directive while you are in the hospital, you should notify your doctor, your family, and others who may need to know.

Even without a change in writing, your wishes stated in person directly to your doctor generally carry more weight than a living will or durable power of attorney, as long as you can decide for yourself and can communicate your wishes. But be sure to state your wishes clearly and be sure that they are understood.

What if I Fill Out an Advance Directive in One State and am Hospitalized in a Different State?

The law on honoring an advance directive from another state is unclear. Because an advance directive tells your wishes regarding medical care, however, it may be honored wherever you are, if it is made known. But if you spend a great deal of time in more than one state, you may wish to consider having your advance directive meet the laws of both states, as much as possible.

What Should I Do With My Advance Directive if I Choose to Have One?

Make sure that someone, such as your lawyer or family member, knows that you have an advance directive and knows where it is located. You might also consider the following:

- If you have a durable power of attorney, give a copy or the original to your "agent" or "proxy."
- Ask your physician to make your advance directive part of your permanent medical record.
- Keep a second copy of your advance directive in a safe place where it can be found easily, if it is needed.
- Keep a small card in your purse or wallet, which states that you have an advance directive and where it is located and who your "agent" or "proxy" is, if you have named one.

Under the new law, when you enter a Medicare or Medicaid hospital or nursing facility, receive home health or hospice care from a Medicare or Medicaid provider, or enroll in a Medicare or Medicaid certified HMO, you should be asked whether you have an advance directive.

For further information, please ask those who are in charge of your care.

Appendix II to the Preamble

National Resources on Advance Directives

The following list of organizations and publications does not reflect an endorsement of the organizations or publications by the Department of Health and Human Services or the Health Care Financing Administration, nor are these materials intended to encourage or discourage any particular action by an individual concerning advance directives.

The following list is a sampling of organizations and publications that have more information on the issue of advance directives. The organizations listed were those that contacted the Health Care Financing Administration regarding the Agency's implementation of the advance directives statute and that addressed the statutory requirement that providers disseminate information to adult individuals regarding their rights under state law to accept or refuse medical treatment and the right to formulate advance directives. The organizations provide a national and geographic sample of consumer, legal, and bioethics groups. The publications listed below were submitted unsolicited to the Health Care Financing Administration.

Organizations

The American Bar Association, Commission on Legal Problems of the Elderly, 1800 M Street, NW., Washington, DC 20036, 202/331–2297

American Health Decisions, 319 E. 46th Street, #9V, New York, NY 10017, 212/268–8900

Hastings Center, Institute of Society, Ethics, and the Life Sciences, 255 Elm Road, Briarcliff Manor, NY 10510, 914/478–0500

Pacific Center of Health Policy and Ethics, 444 Law Center, University of Southern California, Los Angeles, CA 90089, 213/740–2541

Publications

"The Patient Self-Determination Directory and Resource Guide," a directory of national and local organizations that have expertise in the area of autonomous health care decision making.

National Health Lawyers Association, Development Office, 1620 Eye Street, NW., Suite 900, Washington, DC 20006

"A Matter of Choice: Planning Ahead for Health Care Decisions," includes information about living wills, durable powers of attorney, and statutory regulations.

American Association of Retired Persons, Fulfillment Division, Publication Number D12778, 601 E. Street, NW., Washington, DC 20049

"The Complete Guide to Living Wills," a book that answers common questions about the content and function of living wills and other advance directives, and describes a step-by-step process for preparing an advance directive.

By Doron Weber, Bantam Books

"A Patient Guide to Advance Directives" and "A Physician Guide to Advance Directives," two brochures that explain living wills and durable powers of attorney and answer common questions about these and other advance directives.

Health Law Division, American Medical Association, 515 North State Street, 14th Floor, Chicago, IL 60610

"Making Health Decisions for Your Future: Advance Directives," a brochure that answers some commonly asked questions about advance directives.

Midwest Bioethics Center, 410 Archibald, Suite 106, Kansas City, MO 64111

"Advance Directives: Guaranteeing Your Health Care Rights," a 10-minute video with printed material on advance directives.

American Hospital Association Services, Inc., Catalogue Number 058–604, P.O. Box 92683, Chicago, IL 60675–2683

"Making Sense of Advance Directives," a book that presents a historical look at the patient's role in medical decision making, with special attention given to the problems of advance decision making.

By Nancy King, Kluwer Academic Publishers, 101 Philip Drive, Norwell, MA 02061

"Partners in Health Care," a 15-minute videotape dramatizing a "real life" situation in which family members come to grips with the need to discuss the issue of advance directives.

California Health Decisions, 505 S. Main Street, Suite 400, Orange, CA 92668

"Asking About Advance Directives: Scenarios for Healthcare Providers," a 20-minute videotape that presents three typical admissions scenarios and that stresses positive behaviors by medical staff in asking about whether a patient/resident has an advance directive.

The Catholic Health Association of the United States, 4455 Woodson Road, St. Louis, MO 63134–3797.

"Make Your Wishes Known," a series of videotapes and written materials—some of which have been translated into Spanish—about advance directives.

Life Management, P.O. Box 2170, Columbia, SC 29202

Note: This publication was not part of the bibliography that was included in the press package issued by HCFA's Administrator.

List of Subjects

42 CFR Part 417

Administrative practice and procedure, Health maintenance organization (HMO), Medicare, Reporting and recordkeeping requirements.

42 CFR Part 431

Grant programs—health, Health facilities, Medicaid, Privacy, Reporting and recordkeeping requirements.

42 CFR Part 434

Grant programs—health, Health maintenance organizations (HMO), Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 483

Grant programs—health, Health facilities, health professions, Health records, Medicaid, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

42 CFR Part 484

Administrative practice and procedure, Health facilities, Health professions, Home health agencies, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 489

Health facilities, Medicare.

42 CFR Part 498

Administrative practice and procedure, Appeals, Medicare practitioners, providers and suppliers.

TITLE 42—PUBLIC HEALTH

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Chapter IV of title 42 is amended as set forth below:

SUBCHAPTER B—MEDICARE PROGRAM

PART 417—HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

A. Part 417 is amended as follows:

1. The authority citation for part 417 is revised to read as follows:

Authority: Secs. 1102, 1833(a)(1)(A), 1861(s)(2)(H), 1866(a), 1871, 1874, and 1876 of the Social Security Act (42 U.S.C. 1302, 13951(a)(1)(A), 1395x(s)(2)(H), 1395cc(a), 1395hh, 1395kk, and 1395mm); sec. 114(c) of Pub. L. 97–248 (42 U.S.C. 1395mm note); 31 U.S.C. 9701; and secs. 215 and 1301 through 1318 of the Public Health Service Act (42 U.S.C. 216 and 300e through 300e–17), unless otherwise noted.

Subpart K—Enrollment, Entitlement, and Disenrollment Under Medicare Contract

2. In § 417.436, the introductory text in paragraph (a) is republished and the paragraph is amended by revising paragraph (5), redesignating paragraph (6) as paragraph (7) and revising it, and adding a new paragraph (6), and adding a new paragraph (d) to read as follows:

§ 417.436 Membership rules for enrollees.

(a) *Maintaining rules.* An organization must maintain written membership rules that deal with, but need not be limited to—

* * * * *

(5) How and where to obtain services from or through the organization;

(6) Advance directives as specified in paragraph (d) of this section; and

(7) Any other matters that HCFA may prescribe.

* * * * *

(d) *Advance directives.* (1) An organization must maintain written policies and procedures concerning advance directives, as defined in § 489.100 of this chapter, with respect to all adult individuals receiving medical care by or through the organization and are required to:

(i) Provide written information to such individuals concerning—

(A) An individual's rights under State law (whether statutory or recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate, at the individual's option, advance directives; and

(B) The written policies of the organization respecting the implementation of such rights, including a clear and precise statement of limitation if the organization cannot implement an advance directive as a matter of conscience;

(ii) Provide the information specified in paragraphs (d)(1)(i) of this section to each enrollee at the time of enrollment.

(iii) Document in the individual's medical record whether or not the individual has executed an advance directive;

(iv) Not condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

(v) Ensure compliance with requirements of State law (whether statutory or recognized by the courts of the State) regarding advance directives;

(vi) Provide for education of staff concerning its policies and procedures on advance directives; and

(vii) Provide for community education regarding advance directives either directly or in concert with other providers or organizations.

(2) The organization—

(i) Is not required to provide care that conflicts with an advance directive.

(ii) Is not required to implement an advance directive if, as a matter of conscience, the provider cannot

implement an advance directive and State law allows any health care provider or any agency of such provider to conscientiously object.

Subpart L—Medicare Contract Requirements

3. In § 417.472, paragraph (f) is redesignated as paragraph (g) and a new paragraph (f) is added to read as follows:

§ 417.472 Basic contract requirements.

* * * * *

(f) *Requirements for Advance Directives.* The organization must meet all the requirements for advance directives at § 417.436(d) of this part.

* * * * *

Subpart U—Health Care Prepayment Plans

3. In § 417.801(b), the introductory material is republished and the paragraph is amended by revising paragraph (4), redesignating paragraph (5) as paragraph (6) and revising it and adding a new paragraph (5) to read as follows:

§ 417.801 Agreements between HCFA and health care prepayment plans.

* * * * *

(b) *Terms.* The agreement must provide that the HCPP agrees to—

* * * * *

(4) Not impose any limitations on the acceptance of Medicare enrollees or beneficiaries for care and treatment that it does not impose on all other individuals;

(5) Meet the advance directives requirements specified in § 417.436(d) of this part; and

(6) Consider any additional requirements that HCFA finds necessary or desirable for efficient and effective program administration.

* * * * *

SUBCHAPTER C—MEDICAL ASSISTANCE PROGRAMS

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

B. Part 431 is amended as follows:

1. The authority citation for part 431 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act, (42 U.S.C. 1302).

Subpart A—Single State Agency

2. In subpart A, a new § 431.20 is added, and the table of contents is revised accordingly, to read as follows:

§ 431.20 Advance directives.

(a) *Basis and purpose.* This section, based on section 1902(a) (57) and (58) of the Act, prescribes State plan requirements for the development and distribution of a written description of State law concerning advance directives.

(b) A State Plan must provide that the State, acting through a State agency, association, or other private nonprofit entity, develop a written description of the State law (whether statutory or as recognized by the courts of the State) concerning advance directives, as defined in § 489.100 of this chapter, to be distributed by Medicaid providers and health maintenance organizations (as specified in section 1903(m)(1)(A) of the Act) in accordance with the requirements under part 489, subpart I of this chapter.

Subpart C—Administrative Requirements: Provider Relations

3. In subpart C, § 431.107 is amended by revising paragraph (a), republishing the introductory material in paragraph (b), revising paragraphs (b)(2) and (b)(3), and adding a new paragraph (b)(4) to read as follows:

§ 431.107 Required provider agreement.

(a) *Basis and purpose.* This section sets forth State plan requirements, based on sections 1902(a)(4), 1902(a)(27), 1902(a)(57), and 1902(a)(58) of the Act, that relate to the keeping of records and the furnishing of information by all providers of services (including individual practitioners and groups of practitioners).

(b) *Agreements.* A State plan must provide for an agreement between the Medicaid agency and each provider or organization furnishing services under the plan in which the provider or organization agrees to:

* * * * *

(2) On request, furnish to the Medicaid agency, the Secretary, or the State Medicaid fraud control unit (if such a unit has been approved by the Secretary under § 455.300 of this chapter), any information maintained under paragraph (b)(1) of this section and any information regarding payments claimed by the provider for furnishing services under the plan;

(3) Comply with the disclosure requirements specified in part 455, subpart B of this chapter; and

(4) Comply with the advance directives requirements for hospitals, nursing facilities, providers of home health care and personal care services, hospices, and HMOs specified in part 489, subpart I, and § 417.436(d) of this chapter.

PART 434—CONTRACTS

C. Part 434 is amended as follows:

1. The authority citation for part 434 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart C—Contracts With HMOs and PHPs: Contract Requirements

2. In subpart C, a new § 434.28 is added to read as follows:

3. A new § 434.28 is added to read as follows:

§ 434.28 Advance directives.

A risk comprehensive contract with an HMO must provide for compliance with the requirements of subpart I of part 489 of this chapter relating to maintaining written policies and procedures respecting advance directives. This requirement includes provisions to inform and distribute written information to adult individuals concerning policies on advance directives, including a description of applicable State law.

SUBCHAPTER E—STANDARDS AND CERTIFICATION

PART 483—REQUIREMENTS FOR LONG TERM CARE FACILITIES

D. Part 483 is amended as follows:

1. The authority citation for part 483 is revised to read as follows:

Authority: Sec. 1102, 1819 (a)–(d), 1861 (j) and (l), 1863, 1866(a), 1871, 1902(a)(28), 1905 (a) and (c), and 1919(a)–(d) of the Social Security Act (U.S.C. 1302, 1395(i)(3) (a)–(d), 1395x (j) and (l), 1395z, 1395cc(a), 1395hh, 1396a(a)(28), 1396d (a) and (c) and 1396r (a)–(d)), unless otherwise noted.

Subpart B—Requirements for Long Term Care Facilities

2. In § 483.10, the introductory text is republished and paragraph (b) is amended by revising paragraph (4), redesignating existing paragraphs (8) through (10) as paragraphs (9) through (11) and revising them, and by adding a new paragraph (8) to read as follows:

§ 483.10 Resident rights.

The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. A facility must protect and promote the rights of each resident, including each of the following rights:

* * * * *

(b) *Notice of rights and services.*

* * * * *

(4) The resident has the right to refuse treatment, to refuse to participate in experimental research, and to formulate an advance directive as specified in paragraph (8) of this section; and

* * * * *

(8) The facility must comply with the requirements specified in subpart I of part 489 of this chapter relating to maintaining written policies and procedures regarding advance directives. These requirements include provisions to inform and provide written information to all adult residents concerning the right to accept or refuse medical or surgical treatment and, at the individual's option, formulate an advance directive. This includes a written description of the facility's policies to implement advance directives and applicable State law.

(9) The facility must inform each resident of the name, specialty, and way of contacting the physician responsible for his or her care.

(10) The facility must prominently display in the facility written information, and provide to residents and applicants for admission oral and written information about how to apply for and use Medicare and Medicaid benefits, and how to receive refunds for previous payments covered by such benefits.

(11) *Notification of changes.* (i) A facility must immediately inform the resident; consult with the resident's physician; and if known, notify the resident's legal respresentative or an interested family member when there is—

(A) An accident involving the resident which results in injury and has the potential for requiring physician intervention;

(B) A significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications);

(C) A need to alter treatment significantly (i.e., a need to discontinue an existing form of treatment due to adverse consequences, or to commence a new form of treatment); or

(D) A decision to transfer or discharge the resident from the facility as specified in § 483.12(a).

(ii) The facility must also promptly notify the resident and, if known, the resident's legal representative or interested family member when there is—

(A) A change in room or roommate assignment as specified in § 483.15(e)(2); or

(B) A change in resident rights under Federal or State law or regulations as specified in paragraph (b)(1) of this section.

(iii) The facility must record and periodically update the address and phone number of the resident's legal representative or interested family member.

* * * * *

PART 484—CONDITIONS OF PARTICIPATION: HOME HEALTH AGENCIES

E. Part 484 is amended as follows:

1. The authority citation for Part 484 is revised to read as follows:

Authority: Sec. 1102, 1861, 1866(a), 1871 and 1891 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395cc(a), 1395hh, and 1395bbb).

Subpart B—Administration

2. In § 484.10, the introductory text is republished and paragraph (c)(2) is revised to read as follows:

§ 484.10 Condition of participation: Patient rights.

The patient has the right to be informed of his or her rights. The HHA must protect and promote the exercise of these rights.

* * * * *

(c) *Standard: Right to be informed and to participate in planning care and treatment.*

* * * * *

(2) The patient has the right to participate in the planning of the care.

(i) The HHA must advise the patient in advance of the right to participate in planning the care or treatment and in planning changes in the care or treatment.

(ii) The HHA complies with the requirements of subpart I of part 489 of this chapter relating to maintaining written policies and procedures regarding advance directives. The HHA must inform and distribute written information to the patient, in advance, concerning its policies on advance directives, including a description of applicable State law.

* * * * *

PART 489—PROVIDER AGREEMENTS UNDER MEDICARE

F. Part 489 is amended as follows:

1. The title of part 489 is revised to read as follows:

PART 489—PROVIDER AND SUPPLIER AGREEMENTS

2. The authority citation for part 489 continues to read as follows:

Authority: Secs. 1102, 1861, 1864(m), 1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395aa(m), 1395cc, and 1395hh).

3. A new subpart I is added to read as follows:

Subpart I—Advance Directives

Sec.
489.100 Definition.
489.102 Requirements for providers.
489.104 Effective dates.

Subpart I—Advance Directives

§ 489.100 Definition.

For purposes of this part, "advance directive" means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law (whether statutory or as recognized by the courts of the State), relating to the provision of health care when the individual is incapacitated.

§ 489.102 Requirements for providers.

(a) Hospitals, skilled nursing facilities, nursing facilities, home health agencies, providers of home health care (and for Medicaid purposes, providers of personal care services), and hospices must maintain written policies and procedures concerning advance directives with respect to all adult individuals receiving medical care by or through the provider and are required to:

(1) Provide written information to such individuals concerning—

(i) An individual's rights under State law (whether statutory or recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate, at the individual's option, advance directives; and

(ii) The written policies of the provider or organization respecting the implementation of such rights, including a clear and precise statement of limitation if the provider cannot implement an advance directive on the basis of conscience;

(2) Document in the individual's medical record whether or not the individual has executed the implementation of such rights;

(3) Not condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

(4) Ensure compliance with requirements of State law (whether

statutory or recognized by the courts of the State) regarding advance directives;

(5) Provide for education of staff concerning its policies and procedures on advance directives; and

(6) Provide for community education regarding advance directives to include material required in paragraph (a)(1) of this section, either directly or in concert with other providers and organizations.

(b) The information specified in paragraph (a) of this section is furnished:

(1) In the case of a hospital, at the time of the individual's admission as an inpatient.

(2) In the case of a skilled nursing facility at the time of the individual's admission as a resident.

(3)(i) In the case of a home health agency, in advance of the individual coming under the care of the agency.

(ii) In the case of personal care services, in advance of the individual coming under the care of the personal care services provider.

(4) In the case of a hospice program, at the time of initial receipt of hospice care by the individual from the program.

(c) The providers listed in paragraph (a) of this section—

(1) Are not required to provide care that conflicts with an advance directive.

(2) Are not required to implement an advance directive if, as a matter of conscience, the provider cannot implement an advance directive, and State law allows any health care provider or any agency of such provider to conscientiously object.

(d) Prepaid or eligible organizations (as specified in sections 1833(a)(1)(A) and 1876(b) of the Act) must meet the requirements specified in § 417.436 of this chapter.

§ 489.104 Effective dates.

These provisions apply to services furnished on or after December 1, 1991 payments made under section 1833(a)(1)(A) of the Act on or after December 1, 1991, and contracts effective on or after December 1, 1991.

Subpart A—General Provisions

4.5 In subpart A, § 489.10 is amended by redesignating paragraph (b) as paragraph (c) and revising it and by adding a new paragraph (b) to read as follows:

§ 489.10 Basic requirements.

* * * * *

(b) In order for a hospital, SNF, HHA, or hospice to be accepted, it must also meet the advance directives requirements specified in Subpart I of this part.

(c) The State survey agency will ascertain whether the provider meets the conditions of participation or requirements (for SNFs) and make its recommendations to HCFA.

PART 498—APPEALS PROCEDURES FOR DETERMINATIONS THAT AFFECT PARTICIPATION IN THE MEDICARE PROGRAM

G. Part 498 is amended as follows:

1. The authority citation for part 498 is revised to read as follows:

Authority: Secs. 205(a), 1102, 1866(a), 1869(c), 1871 and 1872 of the Social Security Act (42 U.S.C. 405(a), 1302, 1395cc(a), 1395ff(c) 1395hh and 1395ii), unless otherwise noted.

2. In § 498.3(b), the introductory text is republished and a new paragraph (11) is added to read as follows:

§ 498.3 Scope and applicability.

* * * * *

(b) *Initial determinations by HCFA.* HCFA makes initial determinations with respect to the following matters:

* * * * *

(11) Whether a hospital, skilled nursing facility, home health agency, or hospice program meets or contimues to meet the advance directives requirements specified in subpart I of part 489 of this chapter.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 92.773—Medicare—Hospital Insurance Program; No. 93.774—Medicare—Supplementary Medical Insurance Program; No. 93.778—Medical Assistance Programs.)

Dated: August 31, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: December 20, 1991.

Louis W. Sullivan,

Secretary.

[FR Doc. 92-5007 Filed 3-5-92; 8:45 am]

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federal register

Friday
March 6, 1992

Part IV

Department of Housing and Urban Development

Office of Assistant Secretary

Fund Availability for Supportive Housing for Persons With Disabilities; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-92-3386; FR-3150-N-01]

Fund Availability (NOFA) for Supportive Housing for Persons With Disabilities

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of fund availability for FY 92.

SUMMARY: This NOFA announces HUD's funding for supportive housing for persons with disabilities. In the body of this document is information concerning the following: (a) The purpose of the NOFA and information regarding eligibility, submission requirements, available amounts, and selection criteria and (b) application processing, including how to apply and how selections will be made. A checklist of steps and exhibits involved in the application process will be included in the application package which can be obtained from the appropriate Field Office identified in appendix A.

DATE: The deadline date for receipt of applications in response to this NOFA is June 3, 1992.

ADDRESSES: Applications must be delivered to the HUD Field Office for your jurisdiction. A listing of HUD Field Offices, their addresses and telephone numbers (including TDD telephone numbers) are attached as appendix A to this NOFA. HUD will date and time stamp incoming applications to evidence timely receipt, and upon request, provide the applicant with an acknowledgement of receipt. Applications submitted by facsimile are not acceptable.

FOR FURTHER INFORMATION CONTACT: The HUD Field Office for your jurisdiction.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–220), the information collection requirements have been assigned OMB Control Number 2502–0462.

I. Purpose and Substantive Description

A. Authority

Section 811 of the National Affordable Housing Act (the NAH Act) authorized a new supportive housing program for persons with disabilities and replaced assistance for persons with disabilities previously covered by section 202 of the Housing Act of 1959 (section 202 continues, as amended by section 801 of the NAH Act, to authorize supportive housing for the elderly). The purpose of section 811 is to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that is designed to accommodate the special needs of such persons and provides supportive services that address the individual health, mental health, and other needs of such persons. The Secretary is authorized to provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities. The assistance will be provided as capital advances and contracts for project rental assistance in accordance with 24 CFR part 890. This assistance may be used to finance the acquisition with rehabilitation, acquisition without rehabilitation (group homes only), construction or rehabilitation of a structure, and the acquisition of property from the Resolution Trust Corporation (RTC) (group homes and independent living facilities), to be used as supportive housing for persons with disabilities in accordance with Part 890

For supportive housing for persons with disabilities, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Pub. L. 102–139, approved October 28, 1991, (Fiscal Year 1992 Appropriations Act) provides $102,860,000 for capital advances for housing for persons with disabilities as authorized by section 811 and $100,159,000 for project rental assistance for supportive housing for persons with disabilities under section 811(b)(2) of the NAH Act. The capital advance allocation amounts set forth in Section B. below are based upon available project rental assistance.

Of particular interest is the Department's implementation of section 105 of the NAH Act which requires that all applications for this program include a certification of the responsible public official that the proposal is consistent with an approved Comprehensive Housing Affordability Strategy ("CHAS") for the jurisdiction in which the proposed project is to be located. See 24 CFR 890.265(c)(18).

Also of special interest is a statutory requirement for a certification by the appropriate State or local agency that the provision of services identified in the application is well designed to serve the needs of persons with disabilities. In order to fulfill this requirement, Sponsors must submit one copy of exhibit 20 (supportive services plan) of their application and the certification form (found in the application package) to the appropriate State or local agency identified by the Field Office in the application package in ample time for the Sponsors to include the certification with the submission of their application to the appropriate Field Office. Applications which do not contain a certification from the appropriate State or local agency that the provision of supportive services is well designed to serve the special needs of persons with disabilities will not be funded.

Another item of special interest is the recent agreement between HUD and the Farmers Home Administration (FmHA) which facilitates the coordination between the two agencies in administering their respective rental assistance programs. In accordance with this agreement, HUD is required to notify FmHA of applications for housing assistance it receives. The purpose of this notification is to give FmHA the opportunity to comment if it has concern about the demand for additional assisted housing and possible harm to existing projects in the same housing market area. HUD will consider the FmHA comments in its review and project selection process.

B. Allocation Amounts

In accordance with 24 CFR part 791, the Assistant Secretary will allocate the amounts available for capital advances for supportive housing for persons with disabilities. The Department reserves project rental assistance funds sufficient for 20-year contracts in support of the units selected for capital advances, consistent with current operating cost standards.

The allocation formula for section 811 funds consists of the following two data elements:

1. A measure of the number of persons identified as having a public transportation disability; and

2. A measure of the number of persons identified as having a work disability.

Based on this formula, the Department has allocated the available capital advance funds as shown on the following chart:

FISCAL YEAR 1992 ALLOCATION FOR SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

Region	Capital advance	Units
I	$5,589,900	79
II	12,931,900	172

FISCAL YEAR 1992 ALLOCATION FOR SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES—Continued

Region	Capital advance	Units
III	10,439,900	177
IV	16,543,400	339
V	15,431,700	269
VI	7,097,000	153
VII	2,779,200	55
VIII	1,619,600	33
IX	14,599,600	218
X	2,105,500	37
National Total	89,137,700	1,532

C. Eligibility

The only eligible applicants under this program are private, nonprofit organizations. Neither a public body nor an instrumentality of a public body is eligible to participate in the program. A single Sponsor shall not request more units in a given Region than advertised for that Region in the Invitation.

D. Preliminary Evaluation and Selection Criteria

1. Preliminary Evaluation

Applications for section 811 Fund Reservations for housing for persons with disabilities that meet the following initial threshold requirements at preliminary evaluation will be eligible for technical processing:

(a) Application was received by HUD at the appropriate address by June 3, 1992 and was complete or at most, had technical deficiencies (see section IV.A. for the definition of a technical deficiency);

(b) Sponsor acceptably corrected deficiencies (including furnishing missing certifications) within 14 calendar days from the date of the notification of deficiency letter;

(c) Sponsor, proposed facilities and proposed occupants are eligible under section 811;

(d) Sponsor has experience in developing and/or operating housing, medical or other facilities and/or providing services to persons with disabilities, families or minority groups;

(e) There is reasonable expectation that the Sponsor can meet the Minimum Capital Investment requirement and start-up expenses and the Sponsor has passed a resolution committing these funds;

(f) Application contains evidence of control of a site or the appropriate identification of a site;

(g) The Sponsor is in compliance with civil rights laws and regulations as follows:

(1) There are no pending civil rights suits against the Sponsor instituted by the Department of Justice;

(2) There are no outstanding findings of noncompliance with civil rights statutes, Executive Orders or regulations as a result of formal administrative proceedings, or where the Secretary has issued a charge under the Fair Housing Act, unless the Sponsor is operating under a compliance agreement designed to correct the areas of non-compliance;

(3) There has not been a deferrral of the processing of applications from the Sponsor imposed by HUD under title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3), the HUD title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1), or under section 504 of the Rehabilitation Act of 1973 and the HUD section 504 regulations (24 CFR 8.57);

(h) Even without a site visit, it is reasonable to expect the proposed site meets site and neighborhood standards (24 CFR 889.230), including minority and disabled concentration considerations, and is not in a floodway or Coastal High Hazard Area;

(i) There is sufficient market demand for the number and type of units proposed based on preliminary review;

(j) Application included a supportive services plan meeting the requirements of § 890.265(c)(15); and

(k) Application was responsive to the Field Office Invitation.

2. Selection Criteria

Applications for section 811 fund reservations that successfully pass preliminary evaluation and technical processing will be rated using the following selection criteria:

(a) The ability of the Sponsor to develop and operate the proposed housing on a long-term basis (20 points);

(1) The scope, extent and quality of the Sponsor's experience in providing housing or supportive services to the proposed disabled population (10 points);

(2) The scope, extent and quality of the Sponsor's experience in providing housing and/or supportive services to minority persons or families and opportunities for minority and women-owned business enterprises participation (5 points); and

(3) The extent of local community support for the Sponsor and its activities, including experience in providing housing and/or supportive services in the area where the project is to be located, and Sponsor's demonstrated ability to enlist volunteers and local funds for its efforts (5 points);

(b) The Sponsor's financial capacity (25 points):

(1) The Sponsor's financial history and its current financial outlook (5 points);

(2) The Sponsor's ability and willingness to provide funds for start-up expenses and commit financial resources beyond the Minimum Capital Investment (10 points); and

(3) The scope of the proposed project in relationship to the financial capacity and commitment of the Sponsor (10 points);

[Note: Consideration must also be given to the sponsor's financial commitment to any projects in the pipeline and other applications submitted in response to invitations under this NOFA, the NOFA for supportive housing for the elderly, (published elsewhere in today's **Federal Register**) or other invitations under part 889 or part 890.]

(c) The need for supportive housing for persons with disabilities in the area to be served (10 points).

(d) The design of the project (10 points):

(1) The extent to which the proposed design of the housing will meet the special needs of persons with disabilities (4 points);

(2) The extent to which the proposed design of the housing will accommodate the provision of supportive services (that are expected to be needed, either intially or over the useful life of the housing, by the category or categories of persons with disabilities the housing is intended to serve) (3 points); and

(3) The extent to which the proposed size and unit mix (if independent living facility) of the housing will enable the Sponsor to manage and operate the housing efficiently and ensure that provision of supportive services will be accomplished in an economical fashion (3 points);

(e) The provision of supportive services (20 points):

(1) The extent to which the Sponsor has demonstrated that necessary supportive services will be provided on a consistent, long-term basis (10 points);

(2) The appropriateness of the supportive services to the needs of the proposed disabled population (5 points); and

(3) The quality of the service implementation plan (5 points);

(f) The extent to which the Sponsor has control of the site for the proposed housing (15 points):

(1) Applications with evidence of site control:

(i) The proximity or accessibility of the site to shopping, medical facilities, transportation, churches, recreational facilities, job opportunities and other

necessary services to the intended occupants (4 points);

(ii) Suitability of the site from the standpoint of promoting a greater choice of housing opportunities for minority and disabled persons/families (4 points);

(iii) Freedom of the site from adverse environmental conditions and overconcentration of persons with disabilities (4 points); and

(iv) Reasonableness of the site cost per unit and suitability of the property for the intended use and adequacy of utilities and streets (3 points); or

(2) Applications with identification of site:

(i) The proximity or accessibility of the site to shopping, medical facilities, transportation, churches, recreational facilities and other necessary services to the intended occupants as well as freedom of overconcentration of persons with disabilities (5 points);

(ii) Suitability of the site from the standpoint of promoting a greater choice of housing opportunities for minority disabled persons/families (4 points); and

(iii) The likelihood that site control will be obtained within six months of fund reservation, if approved (6 points).

II. Application Process

All applications for section 811 Fund Reservations submitted by eligible Sponsors must be filed with the appropriate HUD Field Office and must contain all exhibits required by this NOFA.

Immediately upon publication of this NOFA, Field Offices shall notify minority organizations within their jurisdiction involved in housing and community development and groups with special interest in housing for persons with disabilities.

Within three weeks of the date of this Notice, HUD Field Offices will publish a one-time Invitation for applications as required by § 890.205(b) of the Regulations, in newspapers of general circulation, and in any minority newspapers serving the Field Office jurisdiction. Field Offices will accept applications after publication of the Invitation. No application will be accepted after the closing time stated in the Invitation and Application Package on June 3, 1992, unless that date and time is extended by a Notice published in the **Federal Register**. Applications received after that date and time will not be accepted, even if postmarked by the deadline date. Applications submitted by facsimile are not acceptable.

Organizations interested in applying for a section 811 Fund Reservation should provide the appropriate Field Office with their names, addresses and telephone numbers, and advise the Field Office whether they wish to attend the workshop described below. HUD encourages minority organizations to participate in this program as Sponsors. Field Offices, at the date and time specified in the Invitations, will conduct workshops to explain the Section 811 Program.

HUD strongly recommends that prospective applicants attend the local Field Office workshop. More detailed information covering the time and place of the particular workshops will be set out in the Field Office Invitation. Interested persons with disabilities should contact the Field Office to assure that any necessary arrangements can be made for them to enable their attendance and participation in the workshop. While strongly urged to do so, if Sponsors cannot attend a workshop, Application Packages and handbooks can also be obtained from the Field Offices. Contact the appropriate Field Office with any questions regarding the submission of applications.

At the workshops, Application Packages will be distributed, application procedures and requirements (including the Department's equal opportunity, environmental, design and cost requirements and required exhibits) will be explained. Also, concerns such as local market conditions, building codes, historic preservation, floodplain management, displacement and relocation, zoning, housing costs, and states' positions on funding supportive services to group home residents will be addressed.

III. Application Submission Requirements

A. Application

Each application shall include all of the information, materials, forms, and exhibits listed in paragraph 2 of this section and must be indexed and tabbed. The Field Office will base its determination of the eligibility of the Sponsor for a reservation of section 811 capital advance funds on the information provided in the application.

In preparing applications, applicants will be able to utilize information and exhibits previously prepared for prior applications under section 811, section 202, or other funding programs. Examples of exhibits that may be readily adapted or amended to decrease the burden of application preparation include, among others, those on previous participation in the section 811 or section 202 programs; applicant experience in housing and services; financial capacity; supportive services plan; community ties, and experience serving minorities.

1. Application Contents

(a) Each applicant (Sponsor) shall include on a Form HUD–92013, Application for Multifamily Housing Project:

(1) The name, address, and telephone number of the Sponsor(s);

(2) The name, title, address, and telepone number of the officer or director of the Sponsor's Board of Directors to whom communications should be addressed;

(3) The following specific information regarding the project:

(i) Number of units requested by bedroom type (efficiency (415 sq. ft.), one-bedroom (540 sq. ft.), two-bedroom (800 sq. ft.), three-bedroom (1050 sq. ft.), four-bedroom (1150 sq. ft.) or if five or more bedrooms are provided, increase unit sizes by up to 100 sq. ft. for each additional bedroom) and the number of residents (if independent living facility) or the number of bedrooms and number of residents to be housed in each group home;

(ii) Dollar amount of the capital advance requested;

(iii) Estimated land cost;

(iv) Number and type of structures;

(v) Number of stories planned and whether an elevator will be included; and

(vi) Development method (new construction, rehabilitation, acquisition with rehabilitation, acquisition without rehabilitation (group homes only), or acquisition of property from the RTC (group homes and independent living facilities)).

(b) Additional exhibits must include:

(1) A Housing Consultant's Resume, Contract (Form HUD 92531A–EH), and an Identity of Interest and Disclosure Certification (if the Sponsor has employed a project consultant).

(2) Evidence of each Sponsor's legal status as a private nonprofit organization, including the following:

(i) Articles of incorporation, constitution, or other organizational documents;

(ii) By-laws;

(iii) A typed incumbency certificate, listing all officers and directors, title, beginning date of each person's term and when that term expires. It must be certified by an officer of the Sponsor that it constitutes all duly qualified and sitting officers and directors as of the date the application is filed with HUD;

(iv) IRS tax exemption ruling (this must be submitted by all Sponsors.

including churches). A nonprofit organization organized in the Commonwealth of Puerto Rico and exempt from income taxation under Puerto Rico law, has never been liable for payment of Federal income taxes, and does not pay patronage dividends may be exempt from the requirement set out in the previous sentence if it is not eligible for tax exemption; and

(v) Resolution of the board, duly certified by an officer, that no officer or director of the Sponsor or Owner has or will have any financial interest in any contract with the Owner or in any firm or corporation which has or will have a contract with the Owner.

(3) Satisfactory evidence that the Sponsor:

(i) Has the necessary legal authority to sponsor the project and to assist the Owner to finance, acquire, construct, or rehabilitate and maintain the project; and

(ii) Will form an Owner (as defined in § 890.105) after the issuance of the fund reservation, will cause the Owner to file a request for determination of eligibility and a request for a capital advance under § 890.300, and will provide sufficient resources to the Owner to ensure the development and long-term operation of the project.

(4) A description of the Sponsor's ties to the community, including the minority community, and any statements of suppport for the project by members of the community in which the project is to be located and state and local organizations familiar with the needs of individuals with disabilities proposed to be housed.

(5) Evidence of previous participation in HUD programs, by the Sponsor, its officers or directors, on Form HUD–2530. If none, forms must be submitted indicating "No previous experience."

(6) A description of any financial default, modification of terms and conditions of financing, or legal action taken or pending against the Sponsor or its officers, directors, or trustees in their corporate capacity.

(7) A description of the following:

(i) Any other rental housing projects, medical and/or other facilities sponsored, owned or operated by the Sponsor, including a description of experience in providing housing, medical and/or other facilities to persons with disabilities and/or to families; and

(ii) The Sponsor's experience in providing housing, medical or other facilities and/or services to minority persons or families and in contracting with minority and women-owned business enterprises.

(8) A description of the Sponsor's past or current involvement in any programs other than housing (including its provision of services) that demonstrates the Sponsor's management capabilities and experience, including a description of the Sponsor's experience in serving disabled persons and/or families.

(9) A certified Board Resolution, acknowledging responsibilities of sponsorship, long-term support of the project(s), willingness of Sponsor to assist the Owner to develop, own, manage and ensure the provision of appropriate services in connnection with the proposed project, and that it reflects the will of its membership.

(10) A list of the applications, if any, the Sponsor has submitted or is planning to submit to any other Field Office in response to the current Invitations under this NOFA, the NOFA for Supportive Housing for the Elderly (published elsewhere in today's **Federal Register**) or other Invitations under part 889 or part 890. Indicate by Field Office, the proposed location by city and state, the number of units requested, and the financial commitments related to each application.

(11) An estimate of start-up expenses for the project and the source of funds to meet these expenses.

(12) Evidence, in the form of a certified Board Resolution, of the Sponsor's willingness to fund the Minimum Capital Investment, estimated start-up expenses, and any associated development or operating costs related to items not covered by the capital advance under § 890.240 and to ensure the development and long-term operation of the project. Also, as evidence of the Sponsor's financial ability to cover these costs, include:

(i) A brief narrative description of financial history;

(ii) Copies of balance sheets and statements of income expenses for each of the past three years that the Sponsor has operated. The financial statement, at a minimum, must include the information contained in Form HUD–92417, and a certification pursuant to the criminal warning provided in U.S. Criminal Code, section 1001, title 18 U.S.C.

(iii) Form HUD–2013 Supplement, Application for Project Mortgage Insurance, listing current bank and trade references; and

(iv) A list of all FY 1991 and prior year projects to which the Sponsor(s) is a party, identified by project number, Field Office, funding year and month and year of initial closing, current status; (if finally closed; indicate month and year); and financial requirements for closing.

[**Note:** If funds to meet the financial requirements of the applications being submitted are being committed by an organization other than the sponsor, evidence of that organization's financial capacity must be included in this exhibit, in addition to the sponsor's financial statements.]

(13) A narrative description of the proposed housing including:

(i) Evidence of control of an approvable site, or identification of a site for which the Sponsor provides reasonable assurances that it will obtain control within 6 months from the date of fund reservation (if Sponsor is approved for funding);

(A) If the Sponsor has the control of the site, it must submit the following information:

(1) Evidence that the Sponsor has entered into a legally binding option agreement to purchase or lease the proposed site; or has a copy of the contract of sale for the site, a deed, long-term leasehold or other evidence of legal ownership of the site (including properties to be acquired from the RTC). The option agreement period should extend through the end of the current fiscal year and contain a renewal provision to guarantee site availability through the subsequent stage of processing. The Sponsor must also identify any restrictive covenants, including reverter clauses. In the case of a site to be acquired from a public body, evidence that the public body possesses clear title to the site, and had entered into a legally binding agreement to lease or convey the site to the Sponsor after it receives and accepts a notification of section 811 Fund Reservation and identification of any restrictive covenants or reverter clauses. However, in localities where HUD determines that the time constraints of the funding round will not permit all of the required official actions (*e.g.*, approval of Community Planning Boards) which are necessary to convey publicly-owned sites, a letter in the application from the Mayor or Director of the appropriate local agency indicating their approval of conveyance of the site contingent upon the necessary approval action is acceptable and may be approved by the Field Office if it has satisfactory experience with timely conveyance of sites from that public body. In such cases, documentation shall also include a copy of the public body's evidence of ownership and whether there are any restrictive covenants or reverter clauses.

[**Note:** A proposed project site may not be acquired or optioned from a general contractor (or its affiliate) which will construct the section 811 project or from any other development team member.]

(2) A map showing the location of the site and the racial composition of the neighborhood, with any area of racial concentration delineated;

(3) Photographs of the site;

(4) Evidence that the project as proposed is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action required to make the proposed project permissible and the basis for the belief that the proposed action will be completed successfully before the receipt of the conditional commitment application (*e.g.*, a summary of the results of any recent requests for rezoning on land in similar zoning classifications and the time required for such rezoning, preliminary indications of acceptability from zoning bodies, *etc.*);

(5) A statement that (a) identifies all persons (families, individuals, businesses and nonprofit organizations (identified by race/minority group, and status as owners or tenants) occupying the property on the date of submission of the application for fund reservation (or date of initial site control, if later); (b) indicates the estimated cost of relocation payments and other services, and (c) identifies the staff organization that will carry out the relocation activities.

[Note: If any of the relocation costs will be funded from sources other than the section 811 capital advance, the sponsor must provide evidence of a firm commitment of these funds. Due to potentially high relocation costs, sponsors are encouraged to utilize sites which involve minimal or no relocation costs.]

(6) In the case of a structure built or rehabilitated prior to 1978 that is proposed to be developed as an independent living facility, a statement from the Sponsor indicating that it has inspected the structure for defective paint surfaces.

(7) An indication as to whether the Sponsor is willing to seek a different site if the preferred site is unapprovable, and if so, a reasonable assurance that site control will be obtained within 6 months of fund reservation.

(B) If the Sponsor has identifed a site, but does not have it under control, it must submit the following information:

(1) A description of the location of the site, including its address, neighborhood/community characteristics (to include racial and ethnic data) and amenities, and adjacent housing and/or facilities;

(2) A description of the activities undertaken to identify the site as well as what actions must be taken to obtain control of the site, if approved for funding,

(3) An indication as to whether the site is properly zoned. If it is not, an indication of the actions/time necessary for proper zoning;

(4) A status of the sale of the site; and

(5) An indication as to whether the site would involve relocation.

(ii) If and how the project will promote energy efficiency and, if applicable, innovative construction or rehabilitation methods or technologies to be used that will promote efficient construction.

(iii) An identification of all community spaces, amenities or features planned for the housing. A description of how the spaces will be utilized also must be included. If these community spaces, amenities, or features would not comply with the design and cost standards of § 890.220, the Sponsor must demonstrate its ability and willingness to contribute both the incremental development cost and continuing operating cost associated with the community spaces, amenities or features.

(iv) A written description of the design of the proposed housing including any special design features and community space necessary to accommodate the physical needs of the proposed residents and the provision of supportive services. Included with the written description must also be a schematic drawing or each floor of the project noting the location of any special design features as well as a typical bedroom in a group home or a typical unit in an independent living facility with approximate dimensions of each, and community space for the provision of supportive services.

[Note: Sponsors submitting applications with evidence of site control for acquisition and/or rehabilitation projects may wish to submit a schematic drawing of an alternate design that may be replicated elsewhere if they want to be considered for points for the design of the project in the event the proposed site is rejected.]

(v) For group homes to be licensed as intermediate care facilities (in which funding for the intermediate care is provided under title XIX of the Social Security Act) that serve persons with developmental disabilities, the following must be submitted:

(a) Evidence demonstrating that the proposed project will primarily provide housing rather than medical facilities, is or will be licensed by appropriate State agencies;

(b) Written evidence that the State Medicaid Office recognizes the need for a tenant contribution to rent and has agreed to pay the cost of the tenant contribution in the Medicaid payment to the Sponsor;

(c) Description of the medical training of the staff of the proposed facility and any nursing services that will be required by the residents on-site;

(d) Description of the services that will be funded by Medicaid for residents of the proposed project, including their nature, frequency and where the services are to be provided;

(e) Description of any special design features proposed for the group home that are not common to other section 811 group homes for the proposed population and the Sponsor's rationale for including them; and,

(f) Statement certifying that the Individual Program Plan for each resident will include participation in an out-of-the-home activity program for at least six hours each weekday.

(14) A narrative description of the anticipated occupancy. The Sponsor must limit occupancy of the proposed project to one or more of the following categories: Persons with chronic mental illness, developmental disabilities, or physical disabilities. The Sponsor may, with the approval of the Secretary, further restrict occupancy of a project to persons with disabilities within the three categories described above who have similar disabilities and who require a similar set of supportive services unique to their disabilities. The Sponsor must demonstrate a capacity to serve the proposed occupancy group(s).

(15) A supportive services plan that includes:

(i) A detailed description of whether the housing is intended to serve persons with physical disabilities, developmental disabilities, or chronic mental illness. Include how and from where persons will be referred and admitted to the project.

(ii) A detailed description of the needs of persons with disabilities that the housing is expected to serve.

(iii) A detailed description of the supportive services proposed to be provided to the anticipated occupancy, including:

(A) The name(s) of the agency(s) which will be responsible for providing supportive services and evidence of the service provider's capability and experience in providing such supportive services;

(B) The manner in which such services will be provided (i.e., how, when and how often, where (on/off-site), including assurances that the proposed residents will receive supportive services based on their individual needs.

(C) The staffing plan, including a description of the qualifications of residential staff, if any, and other staff

necessary to provide the proposed services.

(iv) Identification of the extent of state and local funds available to assist in the provision of supportive services.

(v) A letter of intent from each agency that will provide the supportive services (if other than the Sponsor), indicating the source and extent of commitment to provide funding for the supportive services.

(vi) If any state or local government funds will be provided, a description of the state/local agency's philosophy/policy concerning residential facilities for the population to be served as well as a demonstration by the Sponsor that the application is consistent with state or local plans and policies governing the development and operation of facilities to serve individuals of the proposed occupancy category.

(16) Evidence demonstrating that there is effective demand for the proposed housing in the area to be served by the project and demonstrating that this demand is likely to continue throughout the life of the project.

(17) Signed certifications of the Sponsor(s)' intent to comply with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Executive Orders 11063 and 11246, section 3 of the Housing and Urban Development Act of 1968, and the affirmative fair housing marketing requirements at 24 CFR part 200, subpart M.

(18) A certification from the appropriate state or local agency that it has reviewed the supportive services plan in the Sponsor's application and that the provision of services identified in the application is well designed to serve the special needs of persons with disabilities to be served by the proposed project(s).

(19) A certification by the Sponsor(s) that the appropriate State agency (single point of contact) under Executive Order 12372, Intergovernmental Review, has been contacted to determine if the Section 811 Program is covered under the State review process and, if applicable, the date the application was submitted to the State.

(20) A certification on SF–424, Application for Federal Assistance, that the Sponsor(s) is not delinquent on the repayment of any Federal debt.

(21) A certification by the Sponsor(s) that the section 811 funds will not be used to lobby the Executive or Legislative branches of the Federal government.

(22) A certification that the Sponsor(s) will comply with the requirements of the Drug-Free Workplace Act.

(23) A certification that the Sponsor will comply with the requirements of the Lead-Based Point Poisoning Prevention Act (42 U.S.C. 4821–4846) and implementing regulations at 24 CFR part 35 (except as superseded in § 890.260(f)(2).

(24) A certification that the project will comply with HUD's design and cost standards, the Uniform Federal Accessibility Standards and HUD's implementing regulations at 24 CFR part 40, section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, and for new construction multifamily housing projects (independent living facilities), the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100.

(25) A certification by the Sponsor(s) that it will comply (or has complied) with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR part 24, and 24 CFR 890.260(e).

(26) A completed Form 2880, Applicant Disclosures.

(27) A certification of consistency with an approved housing strategy (CHAS) from the lowest level of government having a full CHAS covering the jurisdiction in which the project is to be located. Should that full CHAS fail to provide a basis for consistency, either a suitable amendment can be prepared or, in the case of a proposed project in a local jurisdiction not having an existing CHAS, that local jurisdiction may prepare an abbreviated strategy appropriate to the project. Such an abbreviated strategy must be submitted prior to or at the time of submission of the section 811 application. See Notice on preparation of an abbreviated strategy published on December 16, 1991 (56 FR 65271).

[Note: To assist applicants in meeting the certification requirement where a CHAS or abbreviated housing strategy has not yet been approved, HUD will accept section 811 applications that are accompanied by a certification that the proposed activity is consistent with the CHAS or abbreviated strategy being reviewed.]

IV. Corrections to Deficient Applications

A. Preliminary Evaluation

During preliminary evaluation, Sponsors will be provided 14 calendar days from the date of HUD's written notification to cure technical deficiencies in their applications. However, it is not additional time to amend the application to overcome any defects in the original submission. Technical deficiencies are inadvertently omitted documents which have been executed prior to the application deadline date (such as certifications or articles of incorporation) or clarifications of previously submitted material and are not of such a nature as to improve the competitive position of the application.

Technical deficiencies do not include items which would be considered substantive defects in the original submission. For example, if a Board resolution is missing from the original submission, but it is submitted during the 14-day period, it must have been executed prior to the deadline date for receipt of applications. If it is not submitted during the 14-day period or it is submitted during this time but executed after the deadline date for receipt of applications, it is a substantive defect and the application will be rejected. Sponsors of applications that are missing two or more complete exhibits will not be afforded an opportunity to submit the missing exhibits and will receive written notification that their applications have been rejected. However, exhibits which are certifications are not counted as missing exhibits in this determination.

Applicants whose applications are found unacceptable during the preliminary evaluation process due to substantive defects and applications which fail to adequately respond to HUD's deficiency letter within the 14-day period, will be notified that their applications are not eligible for further processing, and are rejected.

B. Technical Processing

Applications which are found acceptable during the preliminary evaluation process, or an acceptable response to HUD's deficiency letter was received within the 14-day period, will undergo a more thorough analysis. As part of this analysis, HUD will conduct its environmental review in accordance with 24 CFR part 50 for applications that submitted satisfactory evidence of site control. Examples of reasons for technical processing rejection include a lack of commitment to fund the necessary supportive services or, based on a review of the detailed financial information, the Sponsor(s)' lack of sufficient financial resources. The Secretary will not reject an application based on technical processing without giving notice of that rejection and the basis therefor to the applicant and affording the applicant an opportunity to respond. An applicant will be afforded

10 calendar days from the date of HUD's written notice to appeal a technical rejection. The Field Office shall make a determination on an appeal prior to making its selection recommendations.

Upon completion of technical processing, all acceptable applications will be rated according to the selection criteria in § 890.300(c) (also above in I.D.2.). Applications which have a total score of 50 points or more will be eligible for selection and will be placed in rank order.

V. Additional Information

A. Project Size Limits

The following project size limits are applicable to supportive housing for persons with disabilities:

1. Group homes may house no more than eight (8) persons per home. On a case-by-case basis, however, HUD may approve a group home of up to 15 persons with disabilities if the Sponsor can demonstrate the following:

(a) The increased number of people is necessary for the economic feasibility of the project;

(b) A project of the size proposed is compatible with other residential development and the population density of the area in which the project is to be located;

(c) A project of the size proposed can be successfully integrated into the community; and

(d) A project of the size proposed is marketable in the community.

2. Independent living facilities may house no more than 24 persons with disabilities, except for projects for persons with chronic mental illness which may not exceed 20 such persons. On a case-by-case basis, HUD may approve an exception to the 24-person limit based upon the same criteria set forth in (1) above.

B. Sites

The National Affordable Housing Act requires Sponsors submitting applications for section 811 fund reservations to provide either (a) evidence of site control, or (b) reasonable assurances that it will have control of a site within 6 months of notification of fund reservation. Accordingly, if a Sponsor has control of a site at the time it submits its application, it must include evidence of such as described in § 890.265(c)(13)(i)(A). If it does not have site control, it must provide the information required in § 890.265(c)(13)(i)(B) as a reasonable assurance that site control will be obtained within 6 months of fund reservation notification. Sponsors that do not provide satisfactory evidence of site control or the proper identification of a site will be notified that their applications are rejected.

Sponsors may select a site different from the one(s) submitted in their original applications. Selection of a different site will require HUD performance of an environmental review on the new site, which could result in rejection of that site. However, if a Sponsor does not have site control for any reason 12 months after notification of fund reservation, the assistance will be recaptured and reallocated.

Sponsors submitting satisfactory evidence of an approvable site (*i.e.*, site control) will compete against each other in Category A. Sponsors submitting proper identification of a site will compete against each other in Category B. HUD first shall select applications in the descending order of funding priority from Category A that most closely approximates the capital advance authority provided to the allocation area. If capital advance authority remains after selecting all approvable applications from Category A, HUD shall then select applications in the descending order of funding priority from Category B that most closely approximates the capital advance authority remaining in the allocation area.

Applications containing evidence of site control where either the evidence or the site is not approvable will *not* be rejected provided the application indicates the Sponsor's willingness to select another site and an assurance that site control will be obtained within six months of fund reservation notification. Such applications will not be eligible to receive any of the possible 15 points for the extent to which the Sponsor has control of the site for the proposed housing and will compete for selection in Category B.

VI. Other Matters

A. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations that implement section 101(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410

B. Federalism Executive Order

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12612, Federalism, has determined that this NOFA does not have substantial direct effects on States or their political subdivisions, or on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This NOFA merely notifies the public of the availability of capital advances for supportive housing for persons with disabilities.

C. Family Executive Order

The General Counsel, as the Designated Official under Executive Order No. 12606, The Family, has determined that this NOFA does not significantly affect family formation, maintenance, or general well-being, and, thus, is not subject to review under the order.

D. HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics, (202) 708–3815. (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

E. Applicant/Recipient Disclosures; Subsidy-Layering: HUD Reform Act

Documentation and Public Access

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's Implementing Regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Subsidy-Layering Determinations

24 CFR 12.52 requires HUD to certify that the amount of HUD assistance is not more than is necessary to make the assisted activity feasible after taking account of other government assistance. HUD will make the decision with respect to each certification available to the public free of charge, for a three-year period. (See the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942) for further information on requesting these decisions.) Additional information about applications, HUD certifications, and assistance adjustments, both before assistance is provided or subsequently, are to be made under the Freedom of Information Act (24 CFR part 15).

F. Lobbying

Section 13 of the Department of Housing and Urban Development Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department *and* those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A of the rule.

Any questions regarding the rule should be directed to Arnold J. Haiman, Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–3815; TDD: (202) 708–1112. (These are not toll-free numbers.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

Catalog of Federal Domestic Assistance Program

The Catalog of Federal Domestic Assistance Program title and number is 14.181, Supportive Housing for Persons with Disabilities.

Authority: Section 811, National Affordable Housing Act, Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: February 21, 1992.

Arthur J. Hill,

Assistant Secretary for Housing, Federal Housing Commissioner.

Appendix A—HUD Field Offices

Region I

Boston, Massachusetts Regional Office

(Jurisdiction: Massachusetts)

Harold Thompson (ACTING), Regional Administrator Regional Housing Commissioner, HUD—Boston Regional Offices, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Room 375, Boston, Massachusetts 02222–1092, (617) 565–5234, TDD (617) 565–5453

Hartford, Connecticut Office

(Jurisdiction: Connecticut)

William Hernandez, Jr., Manager, HUD—Hartford Office, 330 Main Street, Hartford, Connecticut 06106–1860, (203) 240–4523, TDD (203) 240–4522

Manchester, New Hampshire Office

(Jurisdiction: New Hampshire)

James Barry, Manager, HUD—Manchester Office, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03101–2487, (603) 666–7681, TDD (603) 666–7518

Providence, Rhode Island Office

(Jurisdiction: Rhode Island)

Casimir J. Kolaski, Jr., Manager, HUD—Providence Office, 330 John O. Pastore Federal Building, and U.S. Post Office—Kennedy Plaza, Providence, Rhode Island 02903–1745, (401) 528–5351, TDD (401) 528–5364

Region II

New York Regional Office

(Jurisdiction: New York, New Jersey)

Dr. Anthony Villane, Regional Administrator-Regional Housing Commissioner, HUD—New York Regional Office, 26 Federal Plaza, New York, New York 10278–0068, (212) 264–8068, TDD (212) 264–0927

Buffalo, New York Office

(Jurisdiction: New York)

Joseph Lynch, Manager, HUD—Buffalo Office, Lafayette Court, 5th Floor, 465 Main Street, Buffalo, New York 14203–1780, (716) 846–5755, TDD (716) 846–5787

Newark, New Jersey Office

(Jurisdiction: New Jersey)

Theodore Britton, Jr., Manager, HUD—Newark Office, Military Park Building, 60 Park Place, Newark, New Jersey 07102–5504, (201) 877–1662, TDD (201) 877–6649

Region III

Philadelphia, Pennsylvania Regional Office

(Jurisdiction: Pennsylvania)

Michael Smerconish, Regional Administrator, HUD—Philadelphia Regional Office, Liberty Square Building, 105 South 7th Street, Philadelphia, Pennsylvania 19106–3392, (215) 597–2560, TDD (215) 597–5564

Washington, DC, Office

(Jurisdiction: District of Columbia)

I. Toni Thomas, Manager, HUD—Washington, DC, Office, Union Center Plaza, Phase II, 820 First Street NE., Suite 300, Washington, DC 20002–4205, (202) 275–9200, TDD (202) 275–0967

Baltimore, Maryland Office

(Jurisdiction: Maryland)

Maxine Saunders, Manager, HUD—Baltimore Office, 10 North Calvert Street, 3rd Floor, Baltimore, Maryland 21202–1865, (301) 962–2121, TDD (301) 962–0106

Pittsburgh, Pennsylvania Office

(Jurisdiction: Pennsylvania)

Choice Edwards, Manager, HUD—Pittsburgh Office, 412 Old Post Office Courthouse Bldg., 7th Ave. & Grant St., Pittsburgh, PA 15219–1906, (412) 644–6428, TDD (804) 771–2820

Richmond, Virginia Office

(Jurisdiction: Virginia)

Mary Ann Wilson, Manager, HUD—Richmond Office, 400 North 8th Street, Richmond, Virginia 23240, (804) 771–2721, TDD (804) 771–2820

Charleston, West Virginia Office

(Jurisdiction: West Virginia)

Ron Rash, Manager, HUD—Charleston Office, 405 Capitol Street, Suite 706, Charleston, West Virginia 25301–1795, (304) 347–7000, (FTS) 930–7036

Region IV

Atlanta, Georgia Regional Office

(Jurisdiction: Georgia)

Raymond A. Harris, Regional Administrator-Regional Housing Commissioner, HUD—Atlanta Regional Office, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303–3388, (404) 331–5136, TDD (404) 730–2654

Birmingham, Alabama Office

(Jurisdiction: Alabama)

Robert E. Lunsford, Manager, HUD—Birmingham Office, 600 Beacon Parkway West, Suite 300, Birmingham, Alabama 35209–3144, (205) 731–1617, TDD (205) 731–1617

Louisville, Kentucky Office

(Jurisdiction: Kentucky)

Verna V. Van Ness, Acting Manager, HUD—Louisville Office, 601 West Broadway, Post Office Box 1044, Louisville, Kentucky 40201–1044, (502) 582–5251, TDD (502) 582–5139

Jackson, Mississippi

(Jurisdiction: Mississippi)

Sandra Freeman, Manager, HUD—Jackson Office, Dr. A.H. McCoy Federal Building, 100 W. Capitol Street, Room 910, Jackson, Mississippi 39269–1096, (601) 965–4702, (FTS) 490–4702

Greensboro, North Carolina

(Jurisdiction: North Carolina)

Larry J. Parker, Manager, HUD—Greensboro Office, 415 North Edgeworth Street, Greensboro, North Carolina 27401–2107, (919) 333–5363, (FTS) 699–5361

Caribbean Office

(Jurisdiction: Puerto Rico)

Rosa Villalonga, Acting Manager, HUD—Caribbean Office, San Juan Center, 159 Carlos E. Chardon Avenue, San Juan, Puerto Rico 00918–1804, (809) 766–5201

Columbia, South Carolina Office

(Jurisdiction: South Carolina)

Ted B. Freeman, Manager, HUD—Columbia Office, Strom Thurmond Federal Building, 1835–45 Assembly Street, Columbia, South Carolina 29201–2480, (803) 765–5592

Knoxville, Tennessee Office

(Jurisdiction: Tennessee)

Richard B. Barnwell, Manager, HUD—Knoxville Office, John J. Duncan Federal Bldg., 710 Locust Street, SW., Knoxville, Tennessee 37902–2526, (615) 549–9384, TDD (615) 549–9372

Nashville, Tennessee Office

(Jurisdiction: Tennessee)

John H. Fisher, Manager, HUD—Nashville Office, 251 Cumberland Bend Drive, Suite 200, Nashville, Tennessee 37228–1803, (615) 736–5213

Jacksonville, Florida Office

(Jurisdiction: Florida)

James T. Chaplin, Manager, HUD—Jacksonville Office, 325 West Adams Street, Jacksonville, Florida 32202–4303, (904) 791–2626

Region V

Chicago, Illinois Regional Office

(Jurisdiction: Illinois)

Gertrude Jordan, Regional Administrator-Regional Housing Commissioner, HUD—Chicago Regional Office, 626 West Jackson Boulevard, Chicago, Illinois 60606, (312) 353–5660

Detroit, Michigan Office

(Jurisdiction: Michigan)

Harry I. Sharrott, Manager, HUD—Detroit Office, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226–2592, (313) 226–6280

Indianapolis, Indiana Office

(Jurisdiction: Indiana)

J. Nicholas Shelley, Manager, HUD—Indianapolis Office, 151 North Delaware Street, Indianapolis, Indiana 46204–2526, (317) 226–6303

Grand Rapids, Michigan Office

(Jurisdiction: Michigan)

Ronald C. Weston, Manager, HUD—Grand Rapids Michigan Office, 2922 Fuller Avenue, NE., Grand Rapids, Michigan 49505–3409, (616) 456–2100

Minneapolis-St. Paul, Minnesota

(Jurisdiction: Minnesota)

Thomas Feeney, Manager, HUD—Minneapolis-St. Paul Office, 220 Second Street, South, Bridge Place Building, Minneapolis, Minnesota 55401–2195, (612) 370–3000

Cincinnati, Ohio Office

(Jurisdiction: Ohio)

William J. Harris, Manager, HUD—Cincinnati Office, Federal Office Building, Room 9002, 550 Main Street, Cincinnati, Ohio 45202–3253, (513) 684–2884

Cleveland, Ohio Office

(Jurisdiction: Ohio)

George L. Engel, Manager, HUD—Cleveland Office, One Playhouse Square, 1375 Euclid Avenue, Room 420, Cleveland, Ohio 44115–1832, (216) 522–4065

Columbus, Ohio Office

(Jurisdiction: Ohio)

Robert W. Dolin, Manager, HUD—Columbus Office, 200 North High Street, Columbus, Ohio 43215–2499, (614) 469–5737

Milwaukee, Wisconsin Office

(Jurisdiction: Wisconsin)

Delbert F. Reynolds, Manager, HUD—Milwaukee Office, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Suite 1380, Milwaukee, Wisconsin 53203–2289, (414) 291–3214

Region VI

Fort Worth, Texas Regional Office

(Jurisdiction: Texas)

Sam R. Moseley, Regional Administrator-Regional Housing Commissioner, HUD—Fort Worth Regional Office, 1600 Throckmorton, Post Office Box 2905, Fort Worth, Texas 76113–2905, (817) 885–5401, TDD (817) 728–5447

Houston, Texas Office

(Jurisdiction: Texas)

William Robertson, Jr., Manager, HUD—Houston Office, National Bank of Texas Building, 2211 Norfolk, Suite 300, Houston, Texas 77098–4096, (713) 229–3589

San Antonio, Texas Office

(Jurisdiction: Texas)

A. Cynthia Leon, Manager, HUD—San Antonio Office, Washington Square Building, 800 Dolorosa Street, San Antonio, Texas 78207–4563, (512) 229–6781, TTD (512) 229–6885

Little Rock, Arkansas Office

(Jurisdiction: Arkansas)

Roger Zachritz, (ACTING) Manager, HUD—Little Rock Office, Lafayette Building, 523 Louisiana, Suite 200, Little Rock, Arkansas 72201–3523, (501) 378–5931, TDD (501) 378–5405

New Orleans, Louisiana Office

(Jurisdiction: New Orleans)

Robert J. Vasquez, Manager, HUD—New Orleans Office, Fisk Federal Building, 1661 Canal Street—P.O. Box 70288, New Orleans, Louisiana 70172–2887, (504) 589–7200

Oklahoma City, Oklahoma Office

(Jurisdiction: Oklahoma)

Edwin I. Gardner, Manager, HUD—Oklahoma City Office, Murrah Federal Building, 200 N.W. 5th Street, Oklahoma City, Oklahoma 73102–3202, (405) 231–4181, TDD (405) 231–4181

Region VII

Kansas City, Missouri Regional Office

(Jurisdiction: Missouri)

William H. Brown, Regional Administrator-Regional Housing Commissioner, HUD—Kansas City Regional Office, Gateway Tower II, 400 State Avenue, Kansas City, KS 66101–2406, (913) 236–2162, TDD (913) 236–3972

Omaha, Nebraska Office

(Jurisdiction: Nebraska)

Roger M. Massey, Manager, HUD—Omaha Office, Braiker/Brandeis Building, 210 South 16th Street, Omaha, Nebraska 68102–1622, (402) 221–3703, TDD (402) 221–3703

St. Louis, Missouri Office

(Jurisdiction: Missouri)

Kenneth G. Lange, Manager, HUD—St. Louis Office, 210 North Tucker Boulevard, St. Louis, Missouri 63101–1997, (314) 425–4761, TDD (314) 425–6331

Des Moines, Iowa Office

(Jurisdiction: Iowa)

William McNarney, Manager, HUD—Des Moines Office, Federal Building, 210 Walnut Street, Room 259, Des Moines, Iowa 50309–2155, (515) 284–4512, TDD (515) 284–4706

Region VIII

Denver, Colorado Regional Office

(Jurisdiction: Colorado)

Michael Chitwood, Regional Administrator-Regional Housing Commissioner, HUD—Denver Regional Office, Executive Tower Building, 1405 Curtis Street, Denver, Colorado 80202–2349, (303) 844–4513

Region IX

San Francisco, California Regional Office

(Jurisdiction: California)

Robert De Monte, Regional Administrator-Regional Housing Commissioner, HUD—San Francisco Regional Office, Philip Burton Federal Building & U.S. Courthouse, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, California 94102–3448, (415) 556–4752, TDD (415) 556–8357

Honolulu, Hawaii Office

(Jurisdiction: Hawaii)

Gordon Y. Furutani, Manager, HUD—Honolulu Office, 300 Ala Moana Boulevard, Room 3318, Honolulu, Hawaii 96850–4991, (808) 546–2136, TDD (808) 551–1348

Los Angeles, California Office

(Jurisdiction: California)

Charles Ming, Manager, HUD—Los Angeles Office, 1615 W. Olympic Boulevard, Los Angeles, California 90015–3801, (213) 251–7122, TDD (213) 251–7038

Sacramento, California Office

(Jurisdiction: California)

Anthony A. Randolph, Manager, HUD—Sacramento Office, 777 12th Street, Suite 200, Post Office Box 1978, Sacramento, California 95814–1977, (916) 551–1351, TDD (916) 551–5971

Phoenix Office

(Jurisdiction: Arizona

Dwight A. Peterson, Manager, HUD—Phoenix Office, One North First Street, Suite 300, Post Office Box 13468, Phoenix, Arizona 85002–3468, (602) 261–4434. TDD (602) 379–4461

Region X

Seattle, Washington Office

(Jurisdiction: Washington)

Richard Bauer, Regional Administrator-Regional Housing Commissioner, HUD—Seattle Regional Office, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101–2058, (206) 442–5414

Portland, Oregon Office

(Jurisdiction: Oregon)

Richard C. Brinck, Manager, HUD—Portland Office, Cascade Building, 520 SW Sixth Avenue, Portland, Oregon 97204–1596, (503) 221–2561, (FTS) 423–2561

Anchorage, Alaska Office

(Jurisdiction: Alaska)

Arlene Patton, Acting Manager, HUD—Anchorage Office, 222 W. 8th Avenue, #64, Anchorage, Alaska 99513–7537, (907) 271–4170, (FTS) 907–271–4170

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federal register

Friday
March 6, 1992

Part V

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Supportive Housing for the Elderly; Notice of Fund Availability for FY 92

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-92-3385; FR 3149-N-01]

Fund Availability (NOFA) for Supportive Housing for the Elderly

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of fund availability for FY 92.

SUMMARY: This NOFA announces HUD's funding for supportive housing for the elderly. In the body of this document is information concerning the following: (a) The purpose of the NOFA and information regarding eligibility, submission requirements, available amounts, and selection criteria and (b) application processing, including how to apply and how selections will be made. A checklist of steps and exhibits involved in the application process will be included in the application package which can be obtained from the appropriate Field Office identified in appendix A.

DATES: The deadline date for receipt of applications in response to this NOFA is June 3, 1992.

ADDRESSES: Applications must be delivered to the HUD Field Office for your jurisdiction. A listing of HUD Field Offices, their addresses and telephone numbers (including TDD telephone numbers) are attached as appendix A to this NOFA. HUD will date and time stamp incoming applications to evidence timely receipt, and upon request, provide the applicant with an acknowledgement of receipt. Applications submitted by facsimile are not acceptable.

FOR FURTHER INFORMATION CONTACT: The HUD Field Office for your jurisdiction.

SUPPLMENTARY INFORMATION

Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–220), the information collection requirements have been assigned OMB Control Number 2502–0267.

I. Purpose and Substantive Description

A. Authority

Section 801 of the Cranston-Gonzalez National Affordable Housing Act (NAHA) amended section 202 of the Housing Act of 1959. It authorized the Secretary to provide assistance to private nonprofit organizations and nonprofit consumer cooperatives to expand the supply of supportive housing for the elderly. The assistance will be provided as capital advances and contracts for project rental assistance in accordance with 24 CFR part 889. This assistance may be used to finance the construction for rehabilitation of a structure, or acquisition of a structure from the Resolution Trust Corporation (RTC), to be used as supportive housing for the elderly in accordance with part 889.

For supportive housing for the elderly, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, (Pub. L. 102–139, approved October 28, 1991, (Fiscal Year 1992 Appropriations Act) provides $538,808,000 for capital advances for housing for the elderly as authorized by section 202 of the Housing Act of 1959, (as amended by section 801 of the NAH Act) and $451,200,000 for project rental assistance for supportive housing for the elderly under section 202(c)(2). The capital advance allocation amounts set forth in section B. below are based upon available project rental assistance funds.

Of particular interest is the Department's implementation of section 105 of the NAHA which requires that all applications for this program include a certification of the responsible public official that the proposal is consistent with an approved Comprehensive Housing Affordability Strategy ("CHAS") for the jurisdiction in which the proposed project is to be located. See 24 CFR 889.270(c)(19).

Also of special interest is the statutory requirement for a certification by the appropriate State or local agency (typically the Area Agency on Aging) that the services identified in the application are well designed for the category or categories of elderly persons the housing is intended to serve. Therefore, the Sponsor must develop and submit its service plan to the appropriate agency to obtain the required certification. The signed certfication must be returned to the Sponsor and included in its application to HUD. Applications must contain a signed certification from the appropriate State or local agency that the provision of services identified in the application is well designed to serve the special needs of the category or categories of elderly persons the housing is intended to serve or they will be rejected.

In accordance with a recent agreeement between HUD and the Farmers Home Administration, HUD is required to notify FmHA of applications for housing assistance it receives. The purpose of this notification is to give FmHA the opportunity to comment if it has concern about the demand for additional assisted housing and possible harm to existing projects in the same housing market area. HUD will consider the FmHA comments in its review and project selection process.

B. Allocation Amounts

In accordance with 24 CFR part 791, the Assistant Secretary will allocate the amounts available for capital advances for supportive housing for the elderly. The Department reserves project rental assistance funds sufficient for 20-year contracts in support of the units selected for capital advances, consistent with current operating cost standards.

The allocation formulation for section 202 funds consists of the following two data elements:

1. A measure of the total number of elderly renter households.

2. A measure of the number of one- and two-person elderly renter households with incomes at or below the very low income standard with housing deficiencies, consisting primarily of households paying more than 30 percent of their incomes for rent.

Based on this formula, the Department has allocated the available capital advance funds as shown on the following chart:

FISCAL YEAR 1992 ALLOCATIONS FOR SUPPORTIVE HOUSING FOR THE ELDERLY

Regional office	Metropolitan		Nonmetropolitan		Totals	
	Capital advance authority	Units	Capital advance authority	Units	Capital advance authority	Units
1	29,809,300	363	5,871,700	84	35,681,000	447
2	77,555,600	903	2,870,400	39	80,426,000	942
3	33,836,500	496	8,090,900	730	41,927,400	626
4	37,779,000	682	22,214,200	409	59,993,200	1,091

FISCAL YEAR 1992 ALLOCATIONS FOR SUPPORTIVE HOUSING FOR THE ELDERLY—Continued

Regional office	Metropolitan		Nonmetropolitan		Totals	
	Capital advance authority	Units	Capital advance authority	Units	Capital advance authority	Units
5	54,010,000	818	14,973,500	237	68,983,500	1,055
6	15,320,300	290	9,770,900	193	25,091,200	483
7	8,409,600	144	7,457,900	136	15,867,500	280
8	4,484,100	81	3,440,300	66	7,924,400	147
9	59,695,700	771	4,282,400	59	63,978,100	830
10	6,647,500	102	2,914,700	47	9,562,200	149
Total	327,547,600	4,650	61,886,900	1,400	409,434,500	6,050

C. Eligibility

The only eligible applicants under this program are private, nonprofit organizations and nonprofit consumer cooperatives. Neither a public body nor an instrumentality of a public body is eligible to participate in the program. No organization shall participate as Sponsor or Co-sponsor in the filing of application(s) for fund reservation in a single region in this fiscal year in excess of that necessary to finance the construction, rehabilitation or acquisition from RTC of 300 units of housing and related facilities for the elderly. This limit shall apply to organizations that participate as Co-sponsors regardless of whether the Co-sponsors are affiliated or non-affiliated entities. In addition, the national limit for any one applicant is 10 percent of the total units allocated in all Regions. Affiliated entities which submit separate applications shall be deemed to be a single entity for the purposes of these limits. No single application may propose more than the number of units advertised by a Field Office or 125 units, whichever is less. Reservations for projects intended for the elderly in metropolitan areas will not be approved for less than 40 units.

D. Preliminary Evaluation and Selection Criteria

1. Preliminary Evaluation

Applications for section 202 Fund Reservations for housing for the elderly that meet the following initial threshold requirements at preliminary evaluation will be eligible for technical processing:

(a) Application was received by HUD at the appropriate address by June 3, 1992 and was complete or at most, had technical deficiencies (see Section IV.A. of this NOFA for the definition of a technical deficiency);

(b) Sponsor acceptably corrected deficiencies (including furnishing missing certifications) within 14 calendar days from the date of the notification letter;

(c) Sponsor, proposed facilities and proposed occupants are eligible under section 202;

(d) Sponsor has experience in developing and/or operating housing, medical or other facilities and/or providing services to the elderly, families or minority groups;

(e) There is reasonable expectation that the Sponsor can meet the Minimum Capital Investment requirement and start-up expenses and the Sponsor passed a certified resolution committing those funds;

(f) Sponsor provided evidence of legally-binding site control;

(g) The Sponsor is in compliance with civil rights laws and regulations as follows:

(i) There are no pending civil rights suits against the Sponsor instituted by the Department of Justice;

(ii) There are no outstanding findings of noncompliance with civil rights statutes, Executive Orders or regulations as a result of formal administrative proceedings, or where the Secretary has issued a charge under the Fair Housing Act, unless the Sponsor is operating under a compliance agreement designed to correct the areas of noncompliance;

(iii) There has not been a deferral of the processing of applications from the Sponsor imposed by HUD under title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3), the HUD Title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1), or under section 504 of the Rehabilitation Act of 1973 and the HUD section 504 regulations (24 CFR 8.57);

(h) Even without a site visit, it is reasonable to expect the proposed site meets site and neighborhood standards (24 CFR 889.230), including minority elderly concentration considerations, and is not in a floodway or Coastal High Hazard Area;

(i) There is sufficient market demand for the number of units proposed based on preliminary review; and

(j) Application was responsive to the Field Office Invitation (*i.e.*, did not request more units than advertised);

2. Selection Criteria

Applications for section 202 fund reservations that successfully pass preliminary evaluation and technical processing will be rated using the following selection criteria:

(a) The ability of the Sponsor to develop and operate the proposed housing on a long-term basis (20 points):

(i) The scope, extent and quality of the Sponsor's experience in providing housing or related services to the persons proposed to be served by the project (10 points);

(ii) The scope, extent and quality of the Sponsor's experience in providing housing or related services to minority persons or families and opportunities for minority and women-owned business enterprises participation (5 points); and

(iii) The extent of local community support for the Sponsor's activities, including previous experience in serving the area where the project is to be located, and Sponsor's demonstrated ability to enlist volunteers and local funds for its efforts (5 points);

(b) The Sponsor's financial capacity (25 points):

(i) The Sponsor's financial history and the current financial outlook (5 points);

(ii) The Sponsor's ability and willingness to provide funds for start-up expenses and commit financial resources beyond the Minimum Capital Investment (10 points); and

(iii) The scope of the proposed project in relationship to the financial capacity and commitment of the Sponsor (10 points);

Note: Consideration must also be given to the Sponsor's financial commitment to any projects in the pipeline and other applications submitted in response to invitations under this NOFA, or the NOFA for supportive housing for persons with disabilities (published elsewhere in today's **Federal Register** or other invitations under part 889 or part 890).

(c) The need for supportive housing for the elderly in the area to be served and the desirability of the proposed site (20 points):

(i) Extent to which the Sponsor demonstrates the need for supportive housing for the elderly (10 points);

(ii) The proximity or accessibility of the site to shopping, medical facilities, transportation, churches, recreational facilities, and other necessary services to the intended occupants and freedom of the site from adverse environmental conditions (4 points);

(iii) Suitability of the site from the standpoint of promoting a greater choice of housing opportunities for minority elderly persons/families (3 points);

(iv) Reasonableness of the estimated site cost per unit and suitability of the property for the intended use and adequacy of utilities and streets (3 points);

(d) The design of the project (15 points):

(i) The extent to which the proposed design will meet the special physical needs of elderly persons (5 points);

(ii) The extent to which the proposed size and unit mix of the housing will enable the Sponsor to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion (5 points); and

(iii) The extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve (5 points); and

(e) The provision of supportive services (20 points):

(i) The extent to which the proposed supportive services meet the identified needs of the residents (10 points); and

(ii) The extent to which the Sponsor has demonstrated that the identified supportive services will be provided on a consistent long-term basis (10 points).

II. Application Process

All applications for Section 202 Fund Reservations submitted by eligible Sponsors must be filed with the appropriate HUD Field Office receiving an allocation and must contain all exhibits required by this notice.

Immediately upon publication of this NOFA, Field Offices shall notify minority organizations within their jurisdiction involved in housing and community development and groups with special interest in housing for elderly households.

Within three weeks of the date of this Notice, HUD Field Offices will publish a one-time Invitation for applications as required by § 889.205(b), in newspapers of general circulation, and in any minority newspapers serving the Field Office jurisdiction. Field Offices will accept applications after publication of the Invitation. No application will be accepted after the closing time stated in the Invitation and Application Package on June 3, 1992, unless that date and time is extended by a Notice published in the **Federal Register**. Applications received after that date and time will not be accepted, even if postmarked by the deadline date. Applications submitted by facsimile are not acceptable.

Organizations interested in applying for a section 202 Fund Reservation should provide the appropriate Field Office with their names, addresses and telephone numbers, and advise the Field Office whether they wish to attend the workshop described below. HUD encourages minority organizations to participate in this program as Sponsors. Field Offices, at the date and time specified in the Invitations, will conduct workshops to explain the section 202 Program.

HUD strongly recommends that prospective applicants attend the local Field Office workshop. More detailed information covering the time and place of the particular workshops will be set out in the Field Office Invitation. Interested persons with disabilities should contact the Field Office to assure that any necessary arrangements can be made for them to enable their attendance and participation in the workshop. While strongly urged to do so, if Sponsors cannot attend a workshop, Application Packages and handbooks can also be obtained from the Field Offices. Contact the appropriate Field Office with any questions regarding the submission of applications.

At the workshops, Application Packages will be distributed, application procedures and requirements (including the Department's equal opportunity, environmental, design and cost standards and required exhibits) will be explained. Also, concerns such as local market conditions, building codes, historic preservation, floodplain management, displacement and relocation, zoning and housing costs will be addressed.

III. Application Submission Requirements

1. Application

Each application shall include all of the information, materials, forms, and exhibits listed inparagraph 2 of this section and must be indexed and tabbed. The Field Office will base its determination of the eligibility of the Sponsor for a reservation of section 202 capital advance funds on the information provided in the application.

In preparing applications, applicants will be able to utilize information and exhibits previously prepared for prior applications under section 202, section 811 or other funding programs. Examples of exhibits that may be readily adapted or amended to decrease the burden of application preparation include, among others, those on previous participation in the section 202 or section 811 programs; applicant experience in housing and services; financial capacity; supportive services plan; community ties, and experience servicing minorities.

2. Application Contents

(a) Each applicant (Sponsor) shall include on a Form HUD–92013, Application for Multifamily Housing Project:

(1) The name, address, and telephone number of the Sponsor(s);

(2) The name, title, address, and telephone number of the officer or director of the Sponsor's Board of Directors to whom communications should be addressed;

(3) The following specific information regarding the project:

(i) Number of units requested by size (efficiency (415 sq. ft.), one-bedroom (540 sq. ft.) or two-bedroom (800 sq. ft.));

(ii) Dollar amount of the capital advance requested;

(iii) Estimated land cost;

(iv) Number and types of structures;

(v) Number of stories planned and whether an elevator will be included; and

(vi) Development method (new construction, rehabilitation or acquisition from the RTC).

(b) Additional exhibits must include:

(1) A Housing Consultant's Resume, Contract (Form HUD 92531A–EH) and an Identity of Interest and Disclosure Certification (if the Sponsor has employed a project consultant).

(2) Evidence of each Sponsor's legal status as a private, nonprofit organization or nonprofit consumer cooperative, including the following:

(i) Articles of Incorporation, constitution, or other organizational documents;

(ii) By-laws;

(iii) A typed incumbency certificate, listing all officers and directors, title, beginning date of each person's term and when that term expires. It must be certified by an officer of the Sponsor

that it constitutes all duly qualified and sitting officers and directors as of the date the application is filed with HUD;

(iv) IRS tax exemption ruling (this must be submitted by all Sponsors, including churches). A nonprofit organization organized in the Commonwealth of Puerto Rico and exempt from income taxation under Puerto Rico law, or a consumer cooperative that is tax exempt under State law, has never been liable for payment of Federal income taxes, and does not pay patronage dividends may be exempt from the requirement set out in the previous sentence if they are not eligible for tax exemption; and

(v) Resolution of the board, duly certified by an officer, that no officer or director of the Sponsor or Owner has or will have any financial interest in any contract with the Owner or in any firm or corporation which has or will have a contract with the Owner.

(3) Satisfactory evidence that the Sponsor:

(i) Has the necessary legal authority to sponsor the project and to assist the Owner to finance, acquire, construct, or rehabilitate and maintain the project; and

(ii) Will form an Owner (as defined in § 889.105) after the issuance of the fund reservation, will cause the Owner to file a request for determination of eligibility and a request for a capital advance under § 889.400, and will provide sufficient resources to the Owner to ensure the development and long-term operation of the project.

(4) A description of the Sponsor's ties to the community, including the minority community, and support from local community groups.

(5) Evidence of any previous participation in HUD programs by the Sponsor, its officers or directors, on Form HUD 2530. If none, forms must be submitted indicating "No previous experience."

(6) A description of any financial default, modification of terms and conditions of financing, or legal action taken or pending against the Sponsor or its officers, directors, or trustees in their corporate capacity.

(7) A description of the following:

(i) any other rental housing projects and/or medical facilities, sponsored, owned and operated by the Sponsor including a description of experience in providing housing and/or medical facilities to the elderly and/or families; and

(ii) The Sponsor's experience in providing housing, medical facilities and/or related services to minority persons or families and in contracting with minority and women-owned business enterprises.

(8) A description of the Sponsor's past or current involvement in any programs other than housing (including its provision of services) that demonstrates the Sponsor's management capabilities and experience, including a description of the Sponsor's experience in serving the elderly and/or families.

(9) A certified Board Resolution, acknowledging responsibilities of sponsorship, long-term support of the project(s), willingness of Sponsor to assist the Owner to develop, own, manage and provide appropriate services in connection with the prosposed project, and that it reflects the will of its membership.

(10) A list of the applications, if any, the Sponsor has submitted or is planning to submit to any other Field Office in response to the current Invitations under this NOFA, the NOFA for Supportive Housing for Persons with Disabilities (published elsewhere in today's **Federal Register**) or other Invitations under Part 889 or Part 890. Indicate by Field Office, the proposed location by city and State, and the number of units requested, and the financial commitments related to each application.

(11) An estimate of start-up expenses for the project and the source of funds to meet these expenses.

(12) Evidence, in the form of a certified Board Resolution, of the Sponsor's willingness to fund the Minimum Capital Investment, estimated start-up expenses, and any associated development or operating costs related to items not covered by the capital advances under § 889.240 and to ensure the development and long-term operation of the project. Also, as evidence of the Sponsor's financial ability to cover those costs, include:

(i) A brief narrative description of financial history;

(ii) Copies of balance sheets and statements of income and expenses for each of the past three years that the Sponsor has operated. The financial statements, at a minimum, must include the information contained in Form HUD–92417 and a certification pursuant to the criminal warning provided in U.S. Criminal Code, Section 1001, Title 18 U.S.C.;

(iii) Form HUD–2013 Supplement, Application for Project Mortgage Insurance, listing current bank and trade references; and

(iv) A list of all FY 1991 and prior year projects to which the Sponsor(s) is a party, identified by project number, Field Office, funding year and month and year of initial closing, current status (if finally closed, indicate month and year) and financial requirements for closing.

Note: If funds to meet the finanacial requirements of the applications being submitted are being committed by an organization other than the sponsor, evidence of that organization's financial capacity must be included in this exhibit, in addition to the sponsor's financial statements.

(13) The following additional information with respect to the proposed project:

(i) A description of the category or categories of elderly persons the housing is intended to serve and the need for supportive housing for that population in the area to be served.

(ii) Evidence that the Sponsor has entered into a legally binding option agreement to buy or lease the proposed site; or has a copy of the contract of sale for the site, a deed, long-term leasehold or other evidence of legal ownership of the site (including properties to be acquired from the Resolution Trust Corporation). The option agreement period should extend through the end of the current fiscal year and contain a renewal provision to guarantee site availability through the subsequent stage of processing. The Sponsor must also identify any restrictive covenants, including reverter clauses. In the case of a site to be acquired from a public body, evidence that the public body possesses clear title to the site, and has entered into a legally binding agreement to lease or convey the site to the Sponsor after it receives and accepts a notice of Section 202 fund reservation and identification of any restrictive covenants, including reverter clauses. However, in localities where HUD determines the time constraints of the funding round will not permit all of the required official actions (*e.g.*, approval of Community Planning Boards) which are necessary to convey publicly-owned sites, a letter in the application from the Mayor or Director of the appropriate local agency indicating approval of conveyance of the site contingent upon the necessary approval action is acceptable and may be approved by the Field Office if it has had satisfactory experience with timely conveyance of sites from that public body. In such cases, documentation shall also include a copy of the public body's evidence of ownership and identification of any restrictive covenants, including reverter clauses.

Note: A proposed project site may not be acquired or optioned from a general contractor (or its affiliate) which will construct the section 202 project or from any other development team member.

(iii) A map showing the location of the site and the racial composition of the neighborhood, with the area of racial concentration delineated.

(iv) A sketch of the site plan showing the general development of the site including the proposed location of the proposed building(s), streets, parking areas and drives, service areas, and unusual site features.

(v) Evidence that the project as proposed is permissible under applicable zoning ordinances or regulations, or a statement of the proposed action required to make the proposed project permissible and the basis for belief that the proposed action will be completed successfully before the receipt of the conditional commitment application (*e.g.*, a summary of the results of any recent requests for rezoning on land in similar zoning classifications and the time required for such rezoning, preliminary indications of acceptability from zoning bodies, *etc.*).

(14) A statement that (a) identifies all persons (families, individuals, businesses and nonprofit organizations (identified by race/minority group, and status as owners or tenants) occupying the property on the date of submission of the application for fund reservation (or date of initial site control, if later); (b) indicates the estimated cost of relocation payments and other services, and (c) identifies the staff organization that will carry out the relocation activities.

Note: If any of the relocation costs will be funded from sources other than the section 202 capital advance, the sponsor must provide evidence of a firm commitment of these funds. Due to potentially high relocation costs, sponsors are encouraged to utilize sites which involve minimal or no relocation costs.

(15) A narrative description of the proposed housing consistent with § 889.270(c), including:

(i) If and how the project will promote energy efficiency and if applicable, innovative construction or rehabilitation methods or technologies to be used that will promote efficient construction.

(ii) Identification and description of all community spaces, special amenities or features planned for the housing. A description of how the spaces will be utilized also must be included. If these amenities, features, or community spaces would not comply with the design and cost standards, the Sponsor must demonstrate its ability and willingness to contribute both the incremental development cost and continuing operating cost associated with the community spaces, features or amenities.

(16) Typical unit plans and floor plans of all floors providing community space, indicating dimensions of spaces to be used for the provision of supportive services.

(17) Identify on a Form HUD 92013E, Supplemental Application Processing Form—Housing for the Elderly, all supportive services, if any, to be provided to the persons occupying such housing; and describe (a) the manner in which such services will be provided to such persons (*i.e.*, on or off-site), including, whether a service coordinator will facilitate the adequate provision of such services, and (b) the public or private sources of assistance that may reasonably be expected to fund or provide such services.

(18) Signed certifications of the Sponsor(s)' intent to comply with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Executive Orders 11063 and 11246, section 3 of the Housing and Urban Development Act of 1968, and the affirmative fair housing marketing requirements at 24 CFR part 200, subpart M.

(19) A certification from the appropriate State or local agency that the provision of services identified in the application is well designed to serve the special needs of the category or categories of elderly persons the housing is intended to serve.

(20) A certification of the Sponsor(s) that the appropriate State agency (single point of contact) under Executive Order 12372, Intergovernmental Review, has been contacted to determine if the section 202 Program is covered under the State review process and, if applicable, the date the application was submitted to the State.

(21) A certification on SF–424, Application for Federal Assistance, that the Sponsor(s) is not delinquent on the repayment of any Federal debt.

(22) A certification by the Sponsor(s) that the section 202 funds will not be used to lobby the Executive or Legislative branches of the Federal government.

(23) A certification that the Sponsor(s) will comply with the requirements of the Drug-Free Workplace Act.

(24) A certification that the project will comply with HUD's design and cost standards, the Uniform Federal Accessibility Standards and HUD's implementing regulations at 24 CFR part 40, Section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR part 8, and for new construction multifamily housing projects, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100.

(25) A certification by the Sponsor(s) that it will comply (or has complied) with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), implemented by regulations at 49 CFR part 24, and 24 CFR 889.265(e).

(26) A completed Form 2880, Applicant Disclosures.

(27) A certification of consistency with an approved housing strategy (CHAS) from the lowest level of government having a full CHAS covering the jurisdiction in which the project is to be located. Should that full CHAS fail to provide a basis for consistency, either a suitable amendment can be prepared or, in the case of a proposed project in a local jurisdiction not having an existing CHAS, that lcoal jurisdiction may prepare an abbreviated strategy appropriate to the project. Such an abbreviated strategy must be submitted prior to or at the time of submission of the Section 202 application. See notice on the preparation of an abbreviated strategy published in the **Federal Register** on December 16, 1991 (56 FR 65271).

Note: To assist applicants in meeting the certification requirement where a CHAS or abbreviated housing strategy has not yet been approved, HUD will accept section 202 applications that are accompanied by a certification that the proposed activity is consistent with the CHAS or abbreviated stategy being reviewed.

IV. Corrections to Deficient Applications

A. Preliminary Evaluation

During preliminary evaluation, Sponsors will be provided 14 calendar days from the date of HUD's written notification to cure technical deficiencies in their applications. However, it is not additional time to amend the application to overcome any defects in the original submission. Technical deficiencies are inadvertently omitted documents which have been executed prior to the application deadline date (such as certifications or articles of incorporation) or clarifications of previously submitted material and are not of such a nature as to improve the competitive position of the application.

Technical deficiencies do not include items which would be considered substantive defects in the original submission. For example, if a Board resolution is missing from the original submission, but it is submitted during

the 14-day period, it must have been executed prior to the deadline date for receipt of applications. If it is not submitted during the 14-day period or it is submitted during this time but executed after the deadline date for receipt of applications, it is a substantive defect and the application will be rejected. Sponsors of applications that are missing two or more complete exhibits will not be afforded an opportunity to submit the missing exhibits and will receive written notification that their applications have been rejected. However, exhibits which are certifications are not counted as missing exhibits in this determination.

Applicants whose applications are found unacceptable during the preliminary evaluation process due to substantive defects and applications which fail to adequately respond to HUD's deficiency letter within the 14-day period, will be notified that their applications are not eligible for further processing, and are rejected.

B. Technical Processing

Applications which are found acceptable during the preliminary evaluation process, or an acceptable response to HUD's deficiency letter received within the 14-day period, will undergo a more thorough analysis. As part of this analysis, HUD will conduct its environmental review in accordance with 24 CFR part 50. Examples of reasons for technical processing rejection include an unacceptable site based upon a site visit or based on a review of the detailed financial information, the Sponsor(s)' lack of sufficient financial resources. The Secretary will not reject an application based on technical processing without giving notice of that rejection and the basis therefore to the applicant and affording the applicant an opportunity to respond. An applicant will be afforded 10 calendar days from the date of HUD's written notice to appeal a technical rejection. The Field Office shall make a determination on an appeal prior to making its selection recommendations.

Upon completion of technical processing, all acceptable applications will be rated according to the selection criteria in § 889.300(d) (also above in I.D.2). Applications which have a total score of 50 points or more will be eligible for selection and will be placed in rank order.

V. Other Matters

A. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations that implement section 101(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washingotn, DC 20410.

B. Federalism Executive Order

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12612, Federalism, has determined that this NOFA does not have substantial direct effects on States or their political subdivisions, or on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This NOFA merely notifies the public of the availability of capital advances and project rental assistance for supportive housing for the elderly.

C. Family Executive Order

The General Counsel, as the Designated Official under Executive Order No. 12606, The Family, has determined that this NOFA does not significantly affect family formation, maintenance, or general well-being, and, thus, is not subject to review under the order.

D. HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by Part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

E. Applicant/Recipient Disclosures; Subsidy-Layering: HUD Reform Act

Documentation and public access. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942, for further information on these requirements.)

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Subsidy-layering determinations. 24 CFR 12.52 requires HUD to certify that the amount HUD assistance is not more than is necessary to make the assisted activity feasible after taking account of other government assistance. HUD will make the decision with respect to each certification available to the public free of charge, for a three-year period. (See the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942) for further information on requesting

these decisions.) Additional information about applications, HUD certifications, and assistance adjustments, both before assistance is provided or subsequently, are to be made under the Freedom of Information Act (24 CFR part 15).

F. Lobbying

Section 13 of the Department of Housing and Urban Development Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A of the rule.

Any questions regarding the rule should be directed to Arnold J. Haiman, Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708–3815; TDD: (202) 708–1112. (These are not toll-free numbers.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

(Catalog of Federal Domestic Assistance Program)

The Catalog of Federal Domestic Assistance Program title and number is 14.181, Housing for the Elderly or Handicapped.

Authority: Section 202, Housing Act of 1959, as amended (12 U.S.C. 1701q), Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: February 21, 1992.

Arthur J. Hill,

Assistant Secretary for Housing, Federal Housing Commissioner.

Appendix A—HUD Field Offices

HUD FIELD OFFICES

Region I

Boston, Massachusetts Regional Office

(Jurisdiction: Massachusetts)

Harold Thompson, (Acting) Regional Administrator Regional Housing Commissioner, HUD—Boston Regional Office, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Room 375, Boston, Massachusetts 02222–1092, (617) 565–5234, TDD (617) 565–5453

Hartford, Connecticut Office

(Jurisdiction: Connecticut)

William Hernandez, Jr., Manager, HUD—Hartford Office, 330 Main Street, Hartford, Connecticut 06106–1860, (203) 240–4523, TDD (203) 240–4522

Manchester, New Hampshire Office

(Jurisdiction: New Hampshire)

James Barry, Manager, HUD—Manchester Office, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03101–2487, (603) 666–7681, TDD (603) 666–7518

Providence, Rhode Island Office

(Jurisdiction: Rhode Island)

Casimir J. Kolaski, Jr., Manager, HUD—Providence Office, 330 John O. Pastore Federal Building and U.S. Post Office—Kennedy Plaza, Providence, Rhode Island 02903–1745, (401) 528–5351, TDD (401) 528–5364

Region II

New York Regional Office

(Jurisdiction: New York, New Jersey)

Dr. Anthony Villane, Regional Administrator-Regional Housing Commissioner, HUD—New York Regional Office, 26 Federal Plaza, New York, New York 10278–0068, (212) 264–8068, TDD (212) 264–0927

Buffalo, New York Office

(Jurisdiction: New York)

Joseph Lynch, Manager, HUD—Buffalo Office, Lafayette Court, 5th Floor, 465 Main Street, Buffalo, New York 14203–1780, (716) 846–5755, TDD (716) 846–5787

Newark, New Jersey Office

(Jurisdiction: New Jersey)

Theodore Britton, Jr., Manager, HUD—Newark Office, Military Park Building, 60 Park Place, Newark, New Jersey 07102–5504, (201) 877–1662, TDD (201) 877–6649

Region III

Philadelphia, Pennsylvania Regional Office

(Jurisdiction: Pennsylvania)

Michael Smerconish, Regional Administrator, HUD—Philadelphia Regional Office, Liberty Square Building, 105 South 7th Street, Philadelphia, Pennsylvania 19106–3392, (215) 597–2560, TDD (215) 597–5564

Washington, DC Office

(Jurisdiction: District of Columbia)

I. Toni Thomas, Manager, HUD—Washington, DC Office, Union Center Plaza, Phase II, 820 First Street, NE., Suite 300, Washington, DC 20002–4205, (202) 275–9200, TDD (202) 275–0967

Baltimore, Maryland Office

(Jurisdiction: Maryland)

Maxine Saunders, Manager, HUD—Baltimore Office, 10 North Calvert Street, 3rd Floor, Baltimore, Maryland 21202–1865, (301) 962–2121, TDD (301) 962–0106

Pittsburgh, Pennsylvania Office

(Jurisdiction: Pennsylvania)

Choice Edwards, Manager, HUD—Pittsburgh Office, 412 Old Post Office Courthouse Bldg., 7th Ave. & Grant St., Pittsburgh, PA 15219–1906, (412) 644–6428, TDD (804) 771–2820

Richmond, Virginia Office

(Jurisdiction: Virginia)

Mary Ann Wilson, Manager, HUD—Richmond Office, 400 North 8th Street, Richmond, Virginia 23240, (804) 771–2721, TDD (804) 771–2820

Charleston, West Virginia Office

(Jurisdiction: West Virginia)

Ron Rash, Manager, HUD—Charleston Office, 405 Capitol Street, Suite 708, Charleston, West Virginia 25301–1795, (304) 347–7000, (FTS) 930–7036

Region IV

Atlanta, Georgia Regional Office

(Jurisdiction: Georgia)

Raymond A. Harris, Regional Administrator-Regional Housing Commissioner, HUD—Atlanta Regional Office, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303–3388, (404) 331–5136, TDD (404) 730–2654

Birmingham, Alabama Office

(Jurisdiction: Alabama)

Robert E. Lunsford, Manager, HUD—Birmingham Office, 600 Beacon Parkway West, Suite 300, Birmingham, Alabama 35209–3144, (205) 731–1617, TDD (205) 731–1617

Louisville, Kentucky Office

(Jurisdiction: Kentucky)

Verna V. Van Ness, Acting Manager, HUD—Louisville Office, 601 West Broadway, Post Office Box 1044, Louisville, Kentucky 40201–1044, (502) 582–5251, TDD (502) 582–5139

Jackson, Mississippi

(Jurisdiction: Mississippi)

Sandra Freeman, Manager, HUD—Jackson Office, Dr. A.H. McCoy Federal Building, 100 W. Capitol Street, Room 910, Jackson, Mississippi 39269–1096, (601) 965–4702, (FTS) 490–4702

Greensboro, North Carolina

(Jurisdiction: North Carolina)

Larry J. Parker, Manager, HUD—Greensboro Office, 415 North Edgeworth Street, Greensboro, North Carolina 27401–2107, (919) 333–5363, (FTS) 699–5361

Caribbean Office

(Jurisdiction: Puerto Rico)

Rosa Villalonga, Acting Manager, HUD—Caribbean Office, San Juan Center, 159 Carlos E. Chardon Avenue, San Juan, Puerto Rico 00918–1804, (809) 766–5201

Columbia, South Carolina Office

(Jurisdiction: South Carolina)

Ted B. Freeman, Manager, HUD—Columbia, Office, Strom Thurmond Federal Building, 1835–45 Assembly Street, Columbia, South Carolina 29201–2480, (803) 765–5592

Knoxville, Tennessee Office

(Jurisdiction: Tennessee)

Richard B. Barnwell, Manager, HUD—Knoxville Office, John J. Duncan Federal Bldg., 710 Locust Street, S.W., Knoxville, Tennessee 37902–2526, (615) 549–9384, TDD (615) 549–9372

Nashville, Tennessee Office

(Jurisdiction: Tennessee)

John H. Fisher, Manager, HUD—Nashville Office, 251 Cumberland Bend Drive, Suite 200, Nashville, Tennessee 37228–1803, (615) 736–5213

Jacksonville, Florida Office

(Jurisdiction: Florida)

James T. Chaplin, Manager, HUD—Jacksonville Office, 325 West Adams Street, Jacksonville, Florida 32202–4303, (904) 791–2626

Region V

Chicago, Illinois Regional Office

(Jurisdiction: Illinois)

Gertrude Jordan, Regional Administrator-Regional Housing Commissioner, HUD—Chicago Regional Office, 626 West Jackson Boulevard, Chicago, Illinois 60606, (312) 353–5680

Detroit, Michigan Office

(Jurisdiction: Michigan)

Harry I. Sharrott, Manager, HUD—Detroit Office, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226–2592, (313) 226–6280

Indianapolis, Indiana Office

(Jurisdiction: Indiana)

J. Nicholas Shelley, Manager, HUD—Indianapolis Office, 151 North Delaware Street, Indianapolis, Indiana 46204–2526, (317) 226–6303

Grand Rapids, Michigan Office

(Jurisdiction: Michigan)

Ronald C. Weston, Manager, HUD—Grand Rapids Office, 2922 Fuller Avenue, N.E., Grand Rapids, Michigan 49505–3409, (616) 456–2100

Minneapolis-St. Paul, Minnesota

(Jurisdiction: Minnesota)

Thomas Feeney, Manager, HUD—Minneapolis-St. Paul Office, 220 Second Street, South, Bridge Place Building, Minneapolis, Minnesota 55401–2195, (612) 370–3000

Cincinnati, Ohio Office

(Jurisdiction: Ohio)

William J. Harris, Manager, HUD—Cincinnati Office, Federal Office Building, Room 9002, 550 Main Street, Cincinnati, Ohio 45202–3253, (513) 684–2884

Cleveland, Ohio Office

(Jurisdiction: Ohio)

George L. Engel, Manager, HUD—Cleveland Office, One Playhouse Square, 1375 Euclid Avenue, Room 420, Cleveland, Ohio 44115–1832, (216) 522–4065

Columbus, Ohio Office

(Jurisdiction: Ohio)

Robert W. Dolin, Manager, HUD—Columbus Office, 200 North High Street, Columbus, Ohio 43215–2499, (614) 469–5737

Wilwaukee, Wisconsin Office

(Jurisdiction: Wisconsin)

Delbert F. Reynolds, Manager, HUD—Milwaukee Office, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Suite 1380, Milwaukee, Wisconsin 53203–2289, (414) 291–3214

Region VI

Fort Worth, Texas Regional Office

(Jurisdiction: Texas)

Sam R. Moseley, Regional Administrator—Regional Housing Commissioner, HUD—Fort Worth Regional Office, 1600 Throckmorton, Post Office Box 2905, Fort Worth, Texas 76113–2905, (817) 885–5401, TDD (817) 728–5447

Houston, Texas Office

(Jurisdiction: Texas)

William Robertson, Jr., Manager, HUD—Houston Office, National Bank of Texas Building, 2211 Norfolk, Suite 300, Houston, Texas 77098–4096, (713) 229–3589

San Antonio, Texas Office

(Jurisdiction: Texas)

A. Cynthia Leon, Manager, HUD—San Antonio Office, Washington Square Building, 800 Dolorosa Street, San Antonio, Texas 78207–4563, (512) 229–6885

Little Rock, Arkansas Office

(Jurisdiction: Arkansas)

Roger Zachritz, (Acting) Manager, HUD—Little Rock Office, Lafayette Building, 523 Louisiana, Suite 200, Little Rock, Arkansas 72201–3523, (501) 378–5931, TDD (501) 378–5404

New Orleans, Louisiana Office

(Jurisdiction: New Orleans)

Robert J. Vasquez, Manager, HUD—New Orleans Office, Fisk Federal Building, 1661 Canal Street—P.O. Box 70288, New Orleans, Louisiana 70172–2887, (504) 589–7200

Oklahoma City, Oklahoma Office

(Jurisdiction: Oklahoma)

Edwin I. Gardner, Manager, HUD—Oklahoma City Office, Murrah Federal Building, 200 N.W. 5th Street, Oklahoma City, Oklahoma 73102–3202, (405) 231–4181, TDD (405) 231–4181

Region VII

Kansas City, Missouri Regional Office

(Jurisdiction: Missouri)

William H. Brown, Regional Administrator-Regional Housing Commissioner, HUD—Kansas City Regional Office, Gateway Tower II, 400 State Avenue, Kansas City, KS 66101–2406, (913) 236–2162, TDD (913) 236–3972

Omaha, Nebraska Office

(Jurisdiction: Nebraska)

Roger M. Massey, Manager, HUD—Omaha Office, Braiker/Brandeis Building, 210 South 16th Street, Omaha, Nebraska 68102–1622, (402) 221–3703, TDD (402) 221–3703

St. Louis, Missouri Office

(Jurisdiction: Missouri)

Kenneth G. Lange, Manager, HUD—St. Louis Office, 210 North Tucker Boulevard, St. Louis, Missouri 63101–1997, (314) 425–4761, TDD (314) 425–6331

Des Moines, Iowa Office

(Jurisdiction: Iowa)

William McNarney, Manager, HUD—Des Moines Office, Federal Building, 210 Walnut Street, Room 259, Des Moines, Iowa 50309–2155, (515) 284–4512, TDD (515) 284–4706

Region VIII

Denver, Colorado Regional Office

(Jurisdiction: Colorado)

Michael Chitwood, Regional Administrator-Regional Housing Commissioner, HUD—Denver Regional Office, Executive Tower Building, 1405 Curtis Street, Denver, Colorado 80202–2349, (303) 844–4513

Region IX

San Francisco, California Regional Office

(Jurisidiction: California)

Robert De Monte, Regional Administrator-Regional Housing Commissioner, HUD—San Francisco Regional Office, Phillip Burton Federal Building & U.S. Courthouse, 450 Golden Gate Avenue, P.O. Box 36003, San Francisco, California 94102–3448, (415) 556–4752, TDD (415) 556–8357

Honolulu, Hawaii Office

(Jurisdiction: Hawaii)

Gordon Y. Furutani, Manager, HUD—Honolulu Office, 300 Ala Moana Boulevard, Room 3318, Honolulu, Hawaii 96850–4991, (808) 546–2136, TDD (808) 551–1348

Los Angeles, California Office

(Jurisdiction: California)

Charles Ming, Manager, HUD—Los Angeles Office, 1615 W. Olympic Boulevard, Los Angeles, California 90015–3801, (213) 251–7122, TDD (213) 251–7038

Sacramento, California Office

(Jurisdiction: California)

Anthony A Randolph, Manager, HUD—Sacramento Office, 777 12th Street, Suite 200, Post Office Box 1978, Sacramento, California 95814–1977, (916) 551–1351, TDD (916) 551–5971

Phoenix Office

(Jurisdiction: Arizona)

Dwight A. Peterson, Manager, HUD—Phoenix Office, One North First Street, Suite 300, Post Office Box 13468, Phoenix, Arizona 85002–3468, (602) 261–4434, TDD (602) 379–4461

Region X

Seattle, Washington Office

(Jurisdiction: Washington)

Richard Bauer, Regional Administrator-Regional Housing Commissioner, HUD—Seattle Regional Office, Aracade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101–2058, (206) 442–5414

Portland, Oregon Office,

(Jurisdiction: Oregon)

Richard C. Brinck, Manager, HUD—Portland Office, Cascade Building, 520 SW Sixth Avenue, Portland, Oregon 97204–1596, (503) 221–2561, (FTS) 423–2561

Anchorage, Alaska Office

(Jurisdiction: Alaska)

Arlene Patton, Acting Manager, HUD—Anchorage Office, 222 W. 8th Avenue, #64, Anchorage, Alaska 99513–7537, (907) 271–4170, (FTS) 907–271–4170

[FR Doc. 92–5233 Filed 3–5–92; 8:45 am]

BILLING CODE 4210–27–M

federal register

Friday
March 6, 1992

Part VI

Department of the Interior

Bureau of Indian Affairs

Draft Environmental Impact Statement (DEIS) for the Campo Solid Waste Management Project on the Campo Indian Reservation, San Diego County, CA; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Draft Enviornmental Impact Statement (DEIS) for the Campo Solid Waste Management Project on the Campo Indian Reservation, San Diego County, CA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of availability of DEIS and public hearing dates.

SUMMARY: This notice advises the public that a Draft Environmental Impact Statement (DEIS) for a proposed lease of a portion of the Campo Indian Reservation for development of a solid waste management project is available for public review and that public hearings will be held regarding this document. This notice is furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR part 1503) to obtain comments on the DEIS from agencies and the public.

DATES: Written comments should be received on or before May 8, 1992, and should be directed to Mr. Ronald M. Jaeger, Area Director, Sacramento Area Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825.

Public hearings on the DEIS will be held on Monday, April 6, 1992, 1 p.m. at the San Diego County Administration Center, 1600 Pacific Highway, San Diego, California; Monday, April 6, 1992, 7 p.m. at the Mountain Empire High School, 3305 Buckman Springs Road, Pine Valley, California; and Tuesday, April 7, 1992, 7 p.m. at the Campo Indian Reservation Tribal Center, State Highway 94 and BIA Route 10. Comments and participation at the public hearings are solicited. Individuals wishing copies of this DEIS for review should immediately contact Science Applications International Corporation, Environmental Programs Dividion, 121 Gray Avenue, suite 101, Santa Barbara, California, 93101, Attention: Mr. Richard A. Kentro. Telephone (805) 966–0811. Copies of the DEIS have been sent to all agencies and individuals who participated in the scoping process and to all others who have already requested copies of the document.

FOR FURTHER INFORMATION CONTACT: Mr. Donald B. Knapp, Environmental Quality Specialist, Sacramento Area Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. Telephone (916) 978–4703.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs, Department of the Interior, in cooperation with the Campo Band of Mission Indians, has prepared a DEIS on the proposed lease of a portion of the Campo Indian Reservation in San Diego County, California. The Campo Band proposes to lease the land to their wholly owned subsidiary, Muht-Hei, Inc.

Muht-Hei, Inc., proposes to develop an integrated solid waste management project including a sanitary landfill, a materials recovery (recycling) facility, and a composting facility. The project would be located on the reservation of the Campo Band of Mission Indians in southeastern San Diego County, California. The technical services of Mid-American Waste Systems, Inc. and Campo Projects Corporation would be used pursuant to subleases and other agreements. Muht-Hei, Inc. is a tribally chartered, wholly owned corporation of the Campo Band of Mission Indians. Muht-Hei, Inc. was expressly incorporated for the purpose of assisting the Campo Band in the development of projects for the economic benefit of the Band. Mid-American Waste Systems is a publicly held corporation chartered in Ohio, specializing in design, construction, and operation of landfills and waste management systems. Campo Projects Corporation is a privately held corporation chartered in the state of New York, specializing in recycling and resource recovery.

The sanitary landfill, materials recovery, composting, and ancillary facilities would be included on one contiguous 600-acre site located within the 1,150-acre lease area. The remaining 550 acres of lease area that surround the site would provide an undeveloped buffer area between the site and private lands to the east and to the south. The buffer area would be 700 to 1,660 feet wide on the east and 1,200 to 2,200 feet wide on the south.

Other actions outside the lease area would include upgrading of an existing dirt road to provide a 1.7-mile paved access road from State Highway 94 to the site, truck delivery of water from an off-site location on the reservation, and delivery of solid waste to the site via the San Diego & Imperial Valley (SD&IV) Railroad.

The proposed use of the SD&IV Railroad to deliver municipal solid waste to the project site is an important feature of the proposed project. The SD&IV Railroad (formerly the San Diego & Arizona Eastern Railroad) is a short-line railroad that operates between San Diego and El Cajon and also from San Diego south to San Ysidro, then across the Mexican border at Tijuana and east to Tecate. Although little used east of Tecate, the line re-enters the United States near the town of Camp and crosses the Campo Reservation before continuing east to El Centro in the Imperial Valley. The track is washed out east of the reservation, but it is in fair to good repair to the west between the reservation and Tecate.

As proposed, almost all of the waste materials delivered to the project site would arrive via rail haul on the SD&IV Railroad. Wastes that would be expected to be delivered via truck rather than rail would include materials destined for the composting facility and possibly wastes from local southeast San Diego County communities. Rail haul provides a unique and potentially less expensive means to haul waste materials to a distant disposal site. The Proposed Site at the Campo Reservation is ideally located to take advantage of the existing railroad.

The proposed sanitary landfill would be classified as a Class III solid waste disposal facility according to the California Code of Regulations (CCR, title 23, division 3, chapter 15) and the CEPA Solid Waste Management Regulations (Title V, § 505.23). Wastewater sewage or water treatment sludge could be accepted if it meets certain standards. However, infectious waste, asbestos, petroleum or its byproducts, polychlorinated biphenyls, and other hazardous wastes would not be accepted.

The landfill portion of the proposed project would require a total of approximately 425 acres. The capacity of the landfill site is estimated to be 40 million cubic yards (or about 28 million tons) with a capacity for accepting up to 3,000 tons per day (tpd) for approximately 30 years.

The proposed Materials Recovery Facility (MRF) would house the recycling activities and would provide temporary storage for recovered materials prior to shipment to markets. The MRF would be located adjacent to the landfill.

The composting facility would be located on approximately 10 acres near the northern boundary of the project site. The composting process selected for this project is referred to as "in-vessel" composting. This process is carried out with all initial ingredients, receipt, mixing, and biochemical reactions occurring in a completely closed system. The product would be a controlled composition, high quality compost product, selectively suitable for sale into the agricultural, gardening, and/or landscaping markets.

Indian reservations are governed as sovereign nations, thus, the permitting requirements of state and local regulatory agencies do not apply. The

Campo Environmental Protection Agency (CEPA) has been empowered by the Campo tribal government to adopt and enforce standards and regulations specifically designed to protect the environment and tribal lands. Permitting and environmental standards will be enforced by the CEPA under adopted codes and procedures. The standards must, at a minimum, meet the applicable standards of the EPA, BIA, and other federal agencies.

Alternatives considered and evaluated with the proposed action include two alternative site locations on the reservation identified as Alternative Site 1 and Alternative Site 2. Also evaluated with the proposed action are the alternatives of a reduced waste stream and a reduced area of disturbance. The No-Action Alternative is also evaluated.

Alternative Site 1 is in the north-south trending canyon in the central portion of the reservation. An area of approximately 210 acres would be available for use as a landfill with an overall capacity of 40 million cubic yards. Development of this site would displace the currently active Campo sand quarry. Facilities associated with this alternative would include the sanitary landfill, the MRF, and the composting facility. Access to the facility could be accomplished by both rail and truck transport, although rail deliveries would require the construction of a 2-mile rail spur to the site. Truck delivery would be accomplished via Interstate 8 and State Highway 94, then north on BIA Route 10.

Alternative Site 2 is located in the extreme southwestern portion of the reservation. The site is in an unnamed canyon that runs southeast to northwest. The site encompasses approximately 180 acres. Canyon depth ranges from 120 to 200 feet with an average depth of 160 feet. Estimated capacity of the site is 45 million cubic yards. Operations at this site would require use of truck haul only, because it is unlikely that a rail spur would be constructed to the site due to the grade required. This site would not have sufficient cover material for the landfill and would require importation of cover material. It may be possible to utilize materials from the Campo sand quarry as supplemental cover material. Facilities associated with this alternative would include the sanitary landfill, the MRF, and the composting facility. Waste haul would be by Interstate 8 and State Highway 94, then south to an unpaved road on the reservation.

A reduced waste stream at the Proposed Site could be utilized to accomplish one of several goals. A reduction in the daily waste stream from 3,000 to 1,500 tpd would reduce the amount of rail and/or truck traffic to the site, could result in less daily water consumption, and would reduce the number of workers required for the project. Reducing the daily waste stream by one-half, however, would also have a major effect on both the viability of the project from an operational as well as economic perspective on a short-term basis. Annual revenues to the Campo Band would be reduced by about 50 percent. The useful life of the Proposed Site, however, would be increased from 30 to 60 years under the projected use rates of the proposed action.

A reduction in the capacity of the proposed landfill by reducing its areal extent was also examined as an alternative. Reduction in the areal extent of the landfill would result in an overall reduction of the capacity of the landfill and the lifetime of the project. Total revenues to the Campo Band over the life of the project would be reduced by about 50 percent. Although a reduced area of disturbance would shorten the life of the active project, it would not include a decrease in the daily amounts of water required to operate the facility or a potential reduction in the air, noise, groundwater, and traffic impacts associated with the proposed action.

The No-Action Alternative would continue the present situation. Neither the proposed action nor any of the alternatives would be developed. The need for economic development on the reservation would remain. The Campo Band would continue to experience low income and employment levels.

Other government agencies and members of the public have contributed to the planning and evaluation of the proposals and to the preparation of this DEIS. The scoping process for the Campo Solid Waste Management EIS began with the publication of a Notice of Intent (NOI) in the September 26, 1989, **Federal Register**.

Public scoping meetings were held on October 12 and 13, 1989, at the Campo Reservation, in the town of Campo, and in Chula Vista, California, to obtain input from Federal, State, local, and tribal agencies and the interested public.

Agencies and individuals are urged to provide comments on this DEIS as soon as possible. All comments received by the dates given above will be considered in preparation of the final EIS.

This notice is published pursuant to § 1503.1 of the Council of Environmental Quality Regulations (40 CFR, parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), Department of the Interior Manual (516 DM 1–6) and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: February 27, 1992.

Patrick A. Hayes,

Director, Office of Trust and Economic Development.

[FR Doc. 92–5041 Filed 3–5–92; 8:45 am]

BILLING CODE 4310–02–M

federal register

Friday
March 6, 1992

Part VII

Department of Education

Protection and Advocacy of Individual Rights; Notice of Proposed Priority for Fiscal Year 1992

DEPARTMENT OF EDUCATION

Protection and Advocacy of Individual Rights

AGENCY: Department of Education.

ACTION: Notice of proposed priority for fiscal year 1992.

SUMMARY: The Secretary proposes a priority for fiscal year 1992 for grants to develop pilot projects to protect and advocate for the rights of individuals with severe disabilities who are receiving services under title VII of the Rehabilitation Act of 1973, as amended, (Act) and who are not eligible for services provided by existing protection and advocacy or ombudsman programs or whose request for services cannot be addressed by client assistance programs funded under section 112 of the Act.

DATES: Comments must be received on or before April 6, 1992.

ADDRESSES: All comments concerning this proposed priority should be addressed to Thomas Finch, U.S. Department of Education, 400 Maryland Avenue, SW., room 3319 Switzer Building, Washington, DC 20202–2741.

FOR FURTHER INFORMATION CONTACT: Victor Galloway, U.S. Department of Education, 400 Maryland Avenue, SW., room 3314 Switzer Building, Washington, DC 20202–2741. Telephone: (202) 732–1552 (voice) and 732–1352 (TDD).

SUPPLEMENTARY INFORMATION: Section 731 (part D of title VII) of the Rehabilitation Act of 1973, as amended, authorizes grants to States to establish systems for the protection and advocacy of the rights of individuals with severe disabilities receiving services under title VII. The Secretary proposes to conduct a competition for pilot projects to establish protection and advocacy programs for those individuals.

This program, as well as the priority proposed for this fiscal year, supports AMERICA 2000, the President's strategy for helping the nation move toward achievement of the National Education Goals. The priority, by encouraging the expansion of advocacy services designed to increase the involvement of individuals with severe disabilities in all facets of community life, including continuing education, supports national education goal 5 that calls for every adult American to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and resposibilities of citizenship.

The legislative history of section 731 indicates that Congress intended to have the Protection and Advocacy of Individuals Rights (PAIR) program coordinated with existing protection and advocacy programs and system in the State to avoid duplication of services. Congress also intended that the pilot programs generate sufficient data to assist the Department in determining the future course of and priorities for the PAIR program. Although the fiscal year 1992 Appropriations Act is silent on this subject, the Senate committee report accompanying the fiscal year 1992 Appropriations Act encourages projects established under section 731 of the Act to include within the services that they provide the protection and advocacy of those rights established in the Fair Housing Amendments Act of 1988 and the Americans with Disabilities Act of 1990.

Although only a State agency that is independent of the designated State unit for vocational rehabilitation or any other agency that provides services under title VII of the Act is eligible to apply for funds under section 731 of the Act, the designated PAIR agency may contract with other appropriate agencies to carry out the activities authorized under this priority. However, the designated PAIR agency may not contract with any other agency that provides services under title VII of the Act to carry out activities authorized under section 731 of the Act.

Eligible Applicants

An eligible applicant is the State through its Governor. The Governor shall designate a State agency to conduct the protection and advocacy system under section 731 of the Act that is independent of the designated State unit for vocational rehabilitation or any other agency that provides services under title VII of the Act.

The Secretary will announce the final priority in a notice in the **Federal Register.** The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additonal priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority.

Priority

Under 34 CFR 75.105(c)(3) the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

General Program Requirements

A State shall provide the Secretary with assurances that projects established with grants made under section 731 of the Act will have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of individuals with severe disabilities receiving services under title VII of the Rehabilitation Act within the State. A State shall assure that a protection and advocacy system funded under section 731 of the Act will be independent of any designated State unit that provides services under title VII of the Act to those individuals. A State shall also assure that the agency designated to conduct the protection and advocacy system under section 731 of the Act will utilize mediation to the maximum extent feasible prior to resorting to administrative or legal remedies. A State shall assure that the designated agency will involve individuals with severe disabilities in the development and implementation of the protection and advocacy system.

To prevent duplication of services, the State shall assure that the agency designated to conduct this program has knowledge of the eligibility requirements and the range of services provided by the following programs and will coordinate, as appropriate, with —

(1) The system to protect and advocate for the rights of individuals with developmental disabilities required under the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1978;

(2) The system to protect and advocate for the rights of mentally ill individuals required under the Protection and Advocacy for Mentally Ill Individuals Act of 1986;

(3) The system to provide ombudsman services on behalf of individuals receiving long-term care required under the Older Americans Act;

(4) The client assistance program required under section 112 of the Rehabilitation Act of 1973, as amended;

(5) The advocacy services provided by centers for independent living within the State; and

(6) The investigative and conciliation services funded under the Fair Housing Amendments Act of 1988.

Proposed Priority

Priority will be given to pilot projects that will protect and advocate for the rights of individuals with severe disabilities who are receiving services under title VII of the Rehabilitation Act of 1973, as amended, and who are not eligible for services provided by existing protection and advocacy or ombudsman programs or whose request for services cannot be addressed by client assistance programs funded under section 112 of the Act.

"Individual with severe disabilities" means an individual whose ability to function independently in family or community or to engage or continue in employment is so limited by the severity of his or her physical or mental disability that independent living rehabilitation services are required for the individual to achieve a greater level of independence in functioning in family or community or engaging or continuing in employment.

Projects funded under this priority must—(1) Provide protection and advocacy services to individuals with severe disabilities receiving independent living services under title VII of the Rehabilitation Act to ensure the protection of their rights under the Rehabilitation Act and, to the extent necessary to achieve their independent living goals, the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act of 1990, and other applicable Federal, State, and local laws; (2) Engage in cooperative activities with relevant public and private agencies and organizations to address barriers that prevent these individuals from achieving their independent living goals; and (3) Conduct a self-evaluation to assist the Secretary in determining the effectiveness of the pilot demonstration projects and the future directions and scope of Federal funding of protection and advocacy services for individuals with severe disabilities.

Projects funded under this priority must build upon existing systems to carry out activities not already funded by other sources or to serve individuals not already served by other programs. Projects may establish a priority for services based upon the particular needs of the State. However, projects may not deny services to any individual based on type or types of severe disability.

The applicant shall describe how the project will inform individuals with severe disabilities of their rights and will assist those individuals in pursuing remedies under the Rehabilitation Act of 1973, as amended, the Fair Housing Amendments Act of 1988, and the Americans with Disabilities Act of 1990.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3038, Mary Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Program Authority: 29 U.S.C. 796g.

(Catalog of Federal Domestic Assistance Number 84.240, Protection and Advocacy of Individual Rights)

Dated: February 19, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92–5237 Filed 3–5–92; 8:45 am]

BILLING CODE 4000–01–M

federal register

Friday,
March 6, 1992

Part VIII

Department of Education

Educational Research Grant Program: Researcher Training Project; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1992

DEPARTMENT OF EDUCATION

[CFDA No. 84.117H]

Educational Research Grant Program: Researcher Training Project; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1992

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for grant under this competition.

Purpose of Program: The Educational Research Grant Program (ERGP) supports scientific inquiry designed to advance educational theory and practice. These authorized activities as well as the invitational priority support AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals.

Eligible Applicants: The following are eligible for awards under the Educational Research Grant Program: (a) Institutions of higher education; (b) Public and private organizations, institutions, and agencies; and (c) Individuals.

Deadline for Transmittal of Applications: May 1, 1992.

Available Funds: $200,000.

Estimated Range of Awards: $200,000.

Estimated Average Size of Awards: $200,000.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations:

(a) The Educational Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 75 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

(5) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(6) 34 CFR part 82 (New Restrictions on Lobbying).

(7) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(8) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations for this program in 34 CFR Part 700.

Eligible Activity: Under 34 CFR 700.3 (a) and (b), the Secretary restricts applications under this competition to those proposing to carry out the following activity: training of individuals in educational research. Only applications proposing to conduct this activity will be considered under this competition.

Priority

Invitational Priority: Under 34 CFR 75.105(c)(1) the Secretary is particularly interested in applications that meet the following invitational priority. However, an application that meets this invitational priority does not receive competitive or absolute preference over other applications:

Projects to conduct educational research training that involve: (1) Mentored internships in research insititutions such as the Research and Development Centers and Regional Educational Laboratories supported by the Department's Office of Educational Research and Improvement; and (2) opportunities for participants to engage in original research and scholarly writing. Educational research training projects support AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals by stimulating research that may contribute to the improvement of American education.

The Secretary encourages projects that make special efforts to recruit minority individuals through, among other activities, collaboration with institutions and organizations where minority individuals who are potential educational research candidates may be found, such as historically Black colleges and universities, other colleges and universities that prepare minority educators, or professional associations. A grantee may not, however, limit eligibility to participate in the project on the basis of minority status. For further information regarding a grantee's obligation to comply with Federal nondiscrimination laws, see Nondiscrimination in Federally Assisted Programs, Title VI of the Civil Rights Act of 1964; Policy Interpretation, 44 FR 58509 (October 10, 1979). Copies can be obtained from the address listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Selection Criteria

(a) (1) In evaluating applications for new grants under this competition, the Secretary uses the selection criteria in 34 CFR 700.22.

(2) The program regulations in 34 CFR 700.20(b)(2) provide that the Secretary may award up to 100 points for the selection criteria, including a reserved 25 points distributed in accordance with 34 CFR 700.20(b)(4).

(3) For this competition the Secretary distributes the 25 points as follows:

(i) *Plan of operation* (34 CFR 700.22(a)). Ten points are added to this criterion for a total of 20 points.

(ii) *Evaluation plan* (34 CFR 700.22(d)). Five points are added to this cirterion for a total of 10 points.

(iii) *Significance* (34 CFR 700.22(f)). Five points are added to this criterion for a total of 20 points.

(iv) *Technical soundness* (34 CFR 700.22(g)). Five points are added to this criterion for a total of 20 points.

(4) The maximum score for each criterion is indicated in parentheses.

(b) (1) *Plan of operation* (20 points). The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(ii) The quality of the applicant's plans to use its resources and personnel to achieve each objective of the project; and

(iii) The extent to which the applicant will equitably address the educational needs of students and educators in both public and private educational institutions.

(2) *Quality of key personnel* (20 points).

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the principal investigator;

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(2)(i) (A) and (B) will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(2)(i) (A) and (B), the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(3) *Budget and cost-effectiveness* (5 points). The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives, design, and potential significance of the project.

(4) *Evaluation plan* (10 points). The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(5) *Adequacy of resources* (5 points). The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment and supplies.

(6) *Significance* (20 points).

(i) The Secretary reviews each application to determine the significance of the proposed project.

(ii) The Secretary determines the project's potential to make a significant contribution to American education, as measured by factors such as—

(A) Importance of the proposed project from the standpoint of basic knowledge or of problems in American education;

(B) The likely magnitude of the addition that will be made to knowledge or educational practices if the project is successful, including the extent to which the proposed outcomes can be broadly applied;

(C) The extent to which the project involves creative or innovative approaches that complement or are alternatives to existing approaches to the project's problem area; and

(D) The extent to which the project is designed to yield products and outcomes that can be disseminated and utilized in other settings, such as information, materials, processes, or techniques.

(7) *Technical soundness* (20 points).

(i) The Secretary reviews each application to determine the technical soundness of the proposed activities.

(ii) The Secretary determines—

(A) The adequacy of the project's design, methodology, instrumentation, and data analysis plan, as applicable;

(B) The extent to which the application exhibits a thorough knowledge of current research and development concepts, theories, and outcomes and relates these to the proposed activity; and

(C) The extent to which, where appropriate, the perspectives of a variety of disciplines are used.

Instructions for Transmittal of Applications: (a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # 84.117H), Washington, DC 20202–4725 or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # 84.117H), Room #3633, Regional Office Building #3, 7th and D Streets, SW, Washington, DC 20202–4725

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, and applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If and applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9494.

(3) The applicant must indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this application is divided into three parts plus a statement regarding estimated public reporting burden and various assurances and certifications. These parts and additional materials are organized in the same manner that the submitted application should be organized. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Additional Materials:

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certifications regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013).

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions.

Note: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.

Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. No grant may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT: Diane Jones, U.S. Department of Education, 555 New Jersey Avenue, NW, room 508F Capital Place, Washington, DC 20208–5645. Telephone: 202–219–2146. FAX: 202–219–2106. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 703–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1221e.

Dated: March 3, 1992.

Diane Ravitch,

Assistant Secretary for Educational Research and Improvement.

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Appendix—PART I: Application for Federal Assistance (Standard Form 424 (Rev. 4-88)) and Instructions

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier	
3. DATE RECEIVED BY STATE	State Application Identifier	
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier	

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☒ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address (give city, county, state, and zip code):

Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A State
B County
C Municipal
D Township
E Interstate
F Intermunicipal
G Special District
H Independent School Dist
I State Controlled Institution of Higher Learning
J Private University
K Indian Tribe
L Individual
M Profit Organization
N Other (Specify) _____

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A Increase Award B Decrease Award C Increase Duration
D Decrease Duration Other (specify):

9. NAME OF FEDERAL AGENCY:

U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 1 1 7 H

TITLE: Educational Research Grant Program: Researcher Training Project

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant | b. Project

15. ESTIMATED FUNDING:

a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV. 4-88)
Prescribed by OMB Circular A-102

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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities)
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

PART II: Budget Information—Non-Construction Programs (Standard Form 424A) and Instructions.

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j – Show the amount of indirect cost.

Line 6k – Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

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Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

PART III—Application Narrative

A. *Application Instructions for New Awards.*

1. Information on who is eligible to apply for a grant award can be found in § 700.2 of the final regulations for the program.

2. In order to be considered for funding you must submit an original and two copies (and in order to expedite the review and award process, it is strongly suggested that you voluntarily submit three additional copies).

B. *Instructions for Proposal Narrative.*

1. Research Priorities.

Applicants are invited to address the priority published in the **Federal Register** Notice Inviting Applications contained in this application package.

2. Proposal Narrative

a. Applicants must provide a proposal narrative not to exceed 80–100 double spaced typed pages (normal sized type, no smaller than 10 point pica). The narrative must address each of the following criteria contained in 34 CFR 700.22:

(1) Plan of operation.
(2) Quality of key personnel.
(3) Budget and cost-effectiveness.
(4) Evaluation plan.
(5) Adequacy of resources.
(6) Significance.
(7) Technical soundness.

Under the discussion of technical soundness, applicants should describe in detail and justify the procedures that will be used to carry out the proposed work.

b. Applicants are encouraged to provide a summary of the program project (not to exceed 500 words).

3. Budget Information

3. Applicants must provide a detailed budget for each project and activity to support the request in the budget information form (SF 424A). The cost categories for the detailed budget for each project must be consistent with the cost categories in the summary budget information form. (Instructions are included.)

Provide (at line 21 and attached sheets) a breakdown detailing individual units or activities and amount for each "object class category." For example, for "personnel," show salaries and wages for each staff member by position or name; for "contractual," show consultants, sub-contractual services, materials.

4. Technical Assistance

Any questions regarding a competition should be addressed to the contact person named in the notice inviting applications contained in this package.

5. Reporting Requirements

Each applicant should consider reporting requirements in developing the plan of operation. Performance of financial reports are required at the completion of each project period. Additional guidance will be given prior to the time that the grant is awarded.

Instructions for Estimated Public Reporting Burden

Under terms of the Paperwork Reduction Act of 1980, as amended, and the regulations implementing the Act, the Department of Education invites comment on the public reporting burden in this collection of information. Public reporting burden for this collection of information is estimated to average 27 hours per response, including the time for reviewing instructions, searching exiting data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You may send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1850–0651, Washington, DC 20503.

(Information collection approved under OMB control number 1850–0651. Expiration date: November 30, 1993)

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OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 --

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013, 6/90 (Replaces ED 80-0008, 12/89; ED Form GCS-008, (REV. 12/88); ED 80-0010, 5/90; and ED 80-0011, 5/90, which are obsolete)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0345-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known:* Congressional District, *if known:*	Congressional District, *if known:*
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable:* _____
8. Federal Action Number, *if known:*	9. Award Amount, *if known:* $
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI):*	b. Individuals Performing Services *(including address if different from No. 10a)* *(last name, first name, MI):*

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply):*	13. Type of Payment *(check all that apply):*
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment *(check all that apply):* ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ Date: _____

Federal Use Only:

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Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 mintues per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Approved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

[FR Doc. 92-5236 Filed 3-5-92; 8:45 am]
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Standard Form - LLL-A

federal register

Friday
March 6, 1992

Part IX

The President

Proclamation 6408—Irish-American Heritage Month, 1992

Digital Edition

Federal Register
Vol. 57, No. 45
Friday, March 6, 1992

Presidential Documents

Title 3—

The President

Proclamation 6408 of March 4, 1992

Irish-American Heritage Month, 1992

By the President of the United States of America

A Proclamation

They trace their roots to "an isle of wondrous beauty," to a place "as kind as it is green." They are the more than 40 million Americans who claim Irish ancestry, and this month as communities across the country honor Saint Patrick, the beloved apostle of Ireland, our Nation joins in celebrating their rich heritage.

The distinct heritage of Irish immigrants and their descendants has long been a vibrant part of American history and culture. Sons and daughters of Erin were among the first colonists in America, and many played key roles in our Nation's struggle for independence. Nine of the men who signed our Declaration of Independence were of Irish origin, as was Commodore John Barry, the first naval commander commissioned by the Continental Congress. Another son of Ireland, Charles Thomson, served as the secretary of that body during all 15 years of its existence. Hailed as "the Sam Adams of Philadelphia, the life of the cause of liberty," Thomson labored to help keep the Continental Congress together until America's freedom had been won and a new government under the Constitution had been established. Scores of other Irish-Americans championed the cause of liberty through service in the Continental Army.

Although a significant number of Americans of Irish descent contributed to our Nation's independence, the largest wave of Irish immigration did not reach these shores until the mid-19th century. When a devastating potato blight in the late 1840s led to a series of crop failures and famine, well over a million Irish immigrants journeyed to this land of opportunity. Boston, New York, and other great cities grew with the influx of Irish labor, as did our Nation's railroads, metal trades, and mining communities. One historical portrait of Irish-Americans quotes a 19th-century journal as observing:

> America demands for her development an inexhaustible fund of physical energy, and Ireland supplies the most part of it. There are several sorts of power working at the fabric of this Republic—waterpower, steam-power, and Irish-power. The last works hardest of all.

Such accounts of Irish industry and resolve are, today, inspiring. Yet we know that although it is as glorious as the ancient tales of Brian Boru and as rich as the fields that border the River Shannon, the Irish-American heritage includes its share of hardship.

While farming and other trades were difficult in Ireland, even before the "Black Forties," many 19th-century Irish immigrants faced hard and dangerous work in our Nation's mining towns and cities. The Irish were no strangers to prejudice or discrimination either; they bore the brunt of the "Know-Nothing" nativist movement, and many felt the sting of signs posted by hiring employers that read: "No Irish Need Apply."

Characteristically, however, Irish-Americans proved to be more durable than the forces of bigotry and distrust—even the nickname "the fighting Irish," once used in derision, gradually became an expression of admiration and pride. With faith in Almighty God, with a strength rooted in love of family, and with full confidence in the promise of America, Irish immigrants and their descendants steadily achieved social and economic advancement. Well recognizing the virtues of democracy, Irish-Americans organized effectively at the grassroots level and greatly increased their voice in government during the early part of this century. Moreover, as they had done since the earliest days of our Republic, the Irish home, school, and church together affirmed the importance of faith, industry, and learning. Thus, today we celebrate many outstanding contributions and achievements of Irish-Americans in virtually every sphere of our national life.

Although it spans more than three centuries of American history, the Irish-American heritage continues to flourish on this soil—as perennial as the "wearing o' the green." Annual Saint Patrick's Day events in the United States resonate with a deep and earnest affinity between the American and Irish peoples. In recent years, renewed immigration from Ireland has underscored the strong ties between our two countries.

The Congress, by House Joint Resolution 350, has designated March 1992 as "Irish-American Heritage Month."

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim March 1992 as Irish-American Heritage Month. I invite all Americans to observe this month with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of March, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and sixteenth.

George Bush

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. 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, 202–512–2470).

H.R. 543/P.L. 102–248

To establish the Manzanar National Historic Site in the State of California, and for other purposes. (Mar. 3, 1992; 106 Stat. 40; 5 pages) Price: $1.00

Last List February 28, 1992