AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

4-24-92
Vol. 57 No. 80

federal register

Friday
April 24, 1992

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER

Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

4-24-92
Vol. 57 No. 80
Pages 15001-15216

federal register

Friday
April 24, 1992

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is $1.50 for each issue, or $1.50 for each group of pages as actually bound, or $175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 57 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	512–2235
Problems with public subscriptions	512–2303

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	512–2235
Problems with public single copies	512–2457

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5240
Magnetic tapes	512–2235
Problems with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

Contents

Federal Register

Vol. 57, No. 80

Friday, April 24, 1992

Agriculture Department
See Animal and Plant Health Inspection Service
See Commodity Credit Corporation
See Forest Service

Animal and Plant Health Inspection Service
RULES
Exportation and importation of animals and animal products:
Foot-and-mouth disease; disease status change for Poland, 15002
Ports of embarkation and export inspection facilities—Kansas City, MO, 15001
PROPOSED RULES
District of Columbia; plants and plant products movement, 15033

Army Department
NOTICES
Meetings:
Science Board, 15060, 15061

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Blind and Other Severely Handicapped, Committee for Purchase From
See Committee for Purchase From the Blind and Other Severely Handicapped

Centers for Disease Control
NOTICES
Grants and cooperative agreements; availability, etc.:
HIV early intervention service network; local health departments, demonstration projects, 15087
Meetings:
National Center for Infectious Diseases, 15089

Coast Guard
NOTICES
Pollution:
Oil Pollution Act of 1990; area designations for contingency planning, 15201

Commerce Department
See Export Administration Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for Purchase From the Blind and Other Severely Handicapped
NOTICES
Procurement list; additions and deletions, 15059

Commodity Credit Corporation
RULES
Loan and purchase programs:
Price support levels—
Rice, 15001

Community Services Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Discretionary grants program, 15166

Customs Service
RULES
Ports of entry:
Rio Grande City, TX; port limits definition and extension, 15013
NOTICES
IRS interest rate used in calculating interest on overdue accounts and refunds, 15117

Defense Department
See Army Department
NOTICES
Acquisition laws, streamlining and codifying:
Contract administration working group, 15059
Meetings:
Science Board task forces, 15060

Drug Enforcement Administration
PROPOSED RULES
Manufacturers, distributors, and dispensers of controlled substances; registration, etc.:
Affiliated practitioners; definition and exemption; withdrawn, 15037
NOTICES
Applications, hearings, determinations, etc.:
Piper, Louise B., D.V.M., 15102

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Independent living services for older blind individuals program, 15204

Employment and Training Administration
NOTICES
Adjustment assistance:
Sensus Tech., Inc., et al., 15104
William Brooks Shoe Co., 15105

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 15103

Energy Department
See Federal Energy Regulatory Commission
RULES
National Environmental Policy Act; implementation, 15122
NOTICES
National Environmental Policy Act:
Guidelines revoked, 15159
Powerplant and industrial fuel use; new electric powerplant coal capability; compliance certifications:
Hadson Power Partners of Rensselaer, 15081

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
California, 15026
Hazardous waste program authorizations:
Wisconsin, 15029
NOTICES
Agency information collection activities under OMB review, 15082
Committees; establishment, renewal, termination, etc.:
Oil Pollution Act of 1990; area committees, 15198, 15201
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 15082
Weekly receipts, 15083
Meetings:
Clean Air Act Advisory Committee, 15083

Equal Employment Opportunity Commission
NOTICES
Meetings; Sunshine Act, 15119

Export Administration Bureau
NOTICES
Export privileges, actions affecting:
Butcher-Moller, Brian A., et al., 15049
Meetings:
Telecommunications Equipment Technical Advisory Committee, 15051

Family Support Administration
See Community Services Office

Federal Aviation Administration
RULES
Air carrier certification and operations:
Airport sign requirements, 15162
Airworthiness directives:
Airbus Industrie, 15007
Boeing, 15008–15011
McDonnell Douglas, 15006
PROPOSED RULES
Airworthiness directives:
Beech, 15036

Federal Communications Commission
NOTICES
Agency information collection activities under OMB review, 15084

Federal Deposit Insurance Corporation
RULES
Minority and women outreach program; contracting activities, 15004

Federal Energy Regulatory Commission
NOTICES
Electric rate, small power production, and interlocking directorate filings, etc.:
Florida Power & Light Co. et al., 15061
Natural gas certificate filings:
Williams Natural Gas Co. et al., 15077
Natural Gas Policy Act:
Self-implementing transactions, 15064
Preliminary permits surrender:
Chace Mill Hydro Watt Associates, 15081

Federal Maritime Commission
NOTICES
Agreements filed, etc., 15085

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 15119
Applications, hearings, determinations, etc.:
Banc One Corp. et al., 15085
North American Bancorp, Inc., et al., 15085
SouthTrust Corp. et al., 15086
Wright, Brian R., et al., 15086

Fish and Wildlife Service
NOTICES
Environmental statements; availability, etc.:
Riverside, CA; incidental take of Stephens' kangaroo rat, 15099

Food and Drug Administration
NOTICES
Human drugs:
Patent extension; regulatory review period determinations—
Pravachol; correction, 15090

Foreign Assets Control Office
RULES
Cuban assets control:
Vessels engaged in trade with Cuba; prohibition of entry, 15216

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Alaska
Flowline Alaska; energy pipeline insulation plant, 15052

Forest Service
NOTICES
Environmental statements; availability, etc.:
Jefferson National Forest et al., VA and WV, 15049

Health and Human Services Department
See Centers for Disease Control
See Community Services Office
See Food and Drug Administration
See Health Care Financing Administration
See Health Resources and Services Administration
See Public Health Service

Health Care Financing Administration
NOTICES
Meetings:
Practicing Physicians Advisory Council, 15090

Health Resources and Services Administration
See Public Health Service
NOTICES
National vaccine injury compensation program:
Petitions received, 15091

Housing and Urban Development Department
RULES
Mortgage and loan insurance programs:
Mutual mortgage insurance and rehabilitation loans—
Single family FHA mortgage insurance premiums, 15208

Public and Indian housing:
Consolidated supply program; termination
Correction, 15014
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 15095

Indian Affairs Bureau
NOTICES
Near-reservation designations; list, 15206

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See National Park Service
See Reclamation Bureau

Internal Revenue Service
RULES
Procedure and administration:
Authority to prescribe or modify seals, 15014
Reimbursement to State and local law enforcement agencies, 15016
PROPOSED RULES
Income taxes:
Foreign corporations; determination of interest expense deduction, 15038
Hearing, 15038

International Trade Administration
NOTICES
Antidumping:
Chrome-plated lug nuts from—
China, 15052
Porcelain-on-steel cooking ware from China, 15058

Interstate Commerce Commission
NOTICES
Motor carriers:
Compensated intercorporate hauling operations, 15101

Justice Department
See Drug Enforcement Administration
See Parole Commission
RULES
Child Protection Restoration and Penalties Enhancement Act of 1990; recordkeeping provisions, 15017
NOTICES
Agency information collection activities under OMB review, 15102

Labor Department
See Employment and Training Administration
See Employment Standards Administration
See Pension and Welfare Benefits Administration
NOTICES
Committees; establishment, renewal, termination, etc.:
Veterans' Employment and Training Advisory Committee, 15105

Land Management Bureau
NOTICES
Alaska Native claims selection:
Klukwan, Inc., 15097
Old Harbor Native Corp., 15097
Realty actions; sales, leases, etc.:
California; correction, 15097

National Aeronautics and Space Administration
NOTICES
Meetings:
Space Science and Applications Advisory Committee, 15115

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Arts and Artifacts Indemnity Panel, 15116

National Institute for Occupational Safety and Health
See Centers for Disease Control

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands and Gulf of Alaska groundfish; correction, 15031
Bering Sea and Aleutian Islands groundfish; correction, 15032
NOTICES
Meetings:
Gulf of Mexico Fishery Management Council, 15059

National Park Service
NOTICES
Environmental statements; availability, etc.:
Cape Cod National Seashore, MA, 15100
Meetings:
Cape Cod National Seashore Advisory Commission, 15100
National Register of Historic Places:
Pending nominations, 15100

National Science Foundation
NOTICES
Meetings:
Innovation and change in chemistry instruction; workshop, 15116

Nuclear Regulatory Commission
PROPOSED RULES
Production and utilization facilities; domestic licensing:
Reactor licensees; receipt of byproduct and special nuclear material, 15034
NOTICES
Abnormal occurrence reports:
Periodic reports to Congress, 15116
Applications, hearings, determinations, etc.:
Sacramento Municipal Utility District, 15117
Wolf Creek Nuclear Operating Corp., 15117

Parole Commission
NOTICES
Meetings; Sunshine Act, 15119

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
Communications Workers of America et al., 15105
Rena-Ware Distributors, Inc., et al., 15113

Postal Service
NOTICES
Meetings; Sunshine Act, 15119

Public Health Service
See Centers for Disease Control

See Food and Drug Administration
See Health Resources and Services Administration
NOTICES
Agency information collection activities under OMB review, 15094
National toxicology program:
Toxicology and carcinogenesis studies—
Probenecid, 15095

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
Central Valley Project, CA—
American River Bridge; traffic congestion relief, 15098

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 15119

Transportation Department
See Coast Guard
See Federal Aviation Administration

Treasury Department
See Customs Service
See Foreign Assets Control Office
See Internal Revenue Service

Veterans Affairs Department
RULES
Vocational rehabilitation and education:
Veterans education—
Veterans Education and Employment Amendments of 1989 and Montgomery GI Bill-Active Duty; implementation, 15022
PROPOSED RULES
Vocational rehabilitation and education:
Regional Office Waivers and Compromises Committees; standards for waiver of benefit and home loan program debts collection, 15046
Veterans education—
Miscellaneous amendments; regulatory changes, 15047

Separate Parts In This Issue

Part II
Department of Energy, 15122

Part III
Department of Transportation, Federal Aviation Administration, 15162

Part IV
Department of Health and Human Services, Office of Community Services, 15166

Part V
Environmental Protection Agency, 15198

Part VI
Department of Education, 15204

Part VII
Department of the Interior, Bureau of Indian Affairs, 15206

Part VIII
Department of Housing and Urban Development, 15208

Part IX
Department of the Treasury, Foreign Assets Control Office, 15216

Reader Aids

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
1413.....15001
Proposed Rules:
302.....15033

9 CFR
91.....15001
94.....15002

10 CFR
1021.....15122
Proposed Rules:
50.....15034

12 CFR
361.....15004

14 CFR
39 (5 documents).....15006–15011
139.....15162
Proposed Rules:
39.....15036

19 CFR
101.....15013

21 CFR
Proposed Rules:
1301.....15037
1304.....15037

24 CFR
203.....15208
204.....15208
905.....15014

26 CFR
301 (2 documents).....15014–15016
Proposed Rules:
1 (2 documents).....15038

28 CFR
75.....15017

31 CFR
515.....15216

38 CFR
21.....15022
Proposed Rules:
1.....15046
21.....15047

40 CFR
52.....15026
271.....15029

50 CFR
672.....15031
675 (2 documents).....15031, 15032

Rules and Regulations

Federal Register
Vol. 57, No. 80
Friday, April 24, 1992

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1413

1992 Rice Acreage Reduction Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations at 7 CFR part 1413 to establish the acreage reduction percentage for the 1992 crop of rice at 0 percent. This action is required by section 101B of the Agricultural Act of 1949, as amended (the 1949 Act).

EFFECTIVE DATE: January 31, 1992.

FOR FURTHER INFORMATION CONTACT: Gene S. Rosera, Agricultural Economist, Food Grains Analysis Division, Agricultural Stabilization and Conservation Service, USDA, room 3740–S, P.O. Box 2415, Washington, DC 20013 or call (202) 720–7923.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with provisions of Departmental Regulation 1512–1 and Executive Order 12291 and has been classified as "major." It has been determined that an annual effect on the economy of $100 million or more may result from implementation of the provisions of this final rule.

It has been determined that the Regulatory Flexibility Act is not applicable because the Commodity Credit Corporation is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The title and number of the Federal assistance program, as found in the catalog of Federal Domestic Assistance, to which this proposed rule applies, are as follows: Rice Production Stabilization—10.065.

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

This amendment to 7 CFR part 1413 does not impose any new or revised information collection or recordkeeping requirements on the public.

This final rule amends 7 CFR part 1413 to set forth the acreage reduction requirement under the 1992 Rice Program.

A proposed rule was published in the Federal Register on October 28, 1991, at 56 FR 55473 to amend the regulations found at 7 CFR part 1413 with respect to the 1992 Rice acreage reduction program (ARP) requirements.

Two hundred twenty five comments were received regarding the acreage reduction requirement for the 1992 crop of rice. Six comments favored no ARP, 126 favored an ARP of 2.5 percent or zero, 54 favored an ARP of 5 percent, and 36 favored an ARP of 7.5 percent or greater. Three comments favored an ARP without specifying an ARP reduction level. Many of the comments stated that it was essential for the continuation of their rice production that the 50/92 program and advance deficiency payments continue to be provided.

After reviewing the comments, it has been decided that the 1992-crop acreage reduction requirement shall be 0 percent. This level is selected because it permits the highest level of rice production while continuing 50/92 program benefits, and achieves the stocks-to-use goals of section 101B of the 1949 Act.

List of Subjects in 7 CFR Part 1413

Acreage allotments, Cotton, Feed grains, Price support programs, Reporting and recordkeeping requirements, Rice, Wheat.

Accordingly, 7 CFR part 1413 is amended as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. In § 1413.54, paragraph (a)(4) is revised to read as follows:

§ 1413.54 Acreage reduction program provisions.

(a) * * *

(4)(i) 1991 rice, 5 percent; (ii) 1992 rice, 0 percent.

* * * * *

Signed on April 16, 1992 at Washington, DC.

Keith D. Bjerke,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 92–9551 Filed 4–23–92; 8:45 am]

BILLING CODE 3410–05–M

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. 92–010]

Ports Designated for Exportation of Animals, Kansas City, MO

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the "Inspection and Handling of Livestock for Exportation" regulations by adding Kansas City, Missouri, to the list of ports designated as ports of embarkation. Also, we are adding the KCI Multipurpose Export Facility as the export inspection facility for that port. The effect of this action is to add a port through which animals may be exported. We have determined that this facility meets the requirements of the regulations for inclusion on the list of export inspection facilities.

EFFECTIVE DATE: May 26, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Michael David, Senior Staff Veterinarian, Import-Export Animals Staff, VS, APHIS, USDA, room 761,

Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8383.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 91, "Inspection and Handling of Livestock for Exportation" (referred to below as the regulations) prescribe conditions for exporting animals from the United States. Section 91.14(a) lists approved ports that have export inspection facilities that meet the requirements of § 91.14(c).

In a document published in the **Federal Register** on December 5, 1991 (56 FR 63693–63694, Docket Number 91–122), we proposed to amend § 91.14(a) of the regulations to add Kansas City, Missouri, to the list of ports designated as ports of embarkation and to add the KCI Multipurpose Export Facility as the export inspection facility for that port. We are correcting the address of the KCI Multipurpose Export Facility, which was listed incorrectly in the proposed rule, to read as follows: The facility is located at 12600 NW Prairie View Road, Kansas City, MO 64195, (314) 751–4338; its mailing address is P.O. Box 20462, Kansas City, MO 64195–0462.

Comments on the proposed rule were required to be received on or before January 6, 1992. We received one comment from the State of Missouri Department of Agriculture supporting the proposal as written. Therefore, based upon the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule with one change as indicated above.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause 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.

This rule will impact exporters who choose to use the Kansas City export facility. About 5 to 10 exporters from Iowa, Kansas, Nebraska, and Oklahoma have expressed an interest in using the Kansas City facility for shipping livestock to Southeast Asia and the Pacific Rim for slaughter and breeding. The nearest approved export facilities to such exporters are located in Chicago, Illinois, and Houston, Texas. The Missouri Swine Export Federation, with a 35-exporter membership, also desires to use the facility as a collection point. Additionally, exporters from Canada have expressed an interest in using the facility for resting livestock before shipping to Mexico. None of these exporters are considered to be small businesses. This rule will benefit these exporters by providing them the opportunity to ensure timely export of livestock with a possible savings in shipping costs.

All livestock in the Kansas City, Missouri, area is moved by truck. We believe that these small- to medium-sized carriers will not be adversely affected by this rule, because they will be used for transporting animals to the KCI facility. We are unaware of any other small entities that will be affected by this rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This final rule adds Kansas City, Missouri, to the list of ports designated as ports of embarkation and adds the KCI Multipurpose Export Facility as the export inspection facility for that port. All State and local laws, regulations, and policies that are in conflict with this rule are preempted. No retroactive effect is to be given to this rule. This rule does not require administrative proceedings before parties may file suit in court.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3401 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR Part 91

Animal diseases, Animal welfare, Exports, Humane animal handling, Livestock and livestock products, Transportation.

Accordingly, 9 CFR part 91 is amended as follows:

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

1. The authority citation for part 91 continues to read as follows:

Authority: 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C. 466a, 466b; 49 U.S.C. 1509(d); 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 91.14 is amended by redesignating paragraphs (a)(8) through (a)(15) as paragraphs (a)(9) through (a)(16) and by adding a new paragraph (a)(8) to read as follows:

§ 91.14 Ports of embarkation and export inspection facilities.

(a) * * *

(8) Missouri.

(i) Kansas City—airport only.

(A) KCI Multipurpose Export Facility, 12600 NW Prairie View Road, Kansas City, MO 64195, (314) 751–4338 (mailing address: P.O. Box 20462, Kansas City, MO 64195–0462).

* * * * *

Done in Washington, DC, this 21st day of April 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–9599 Filed 4–23–92; 8:45 am]

BILLING CODE 3410–34–M

---

9 CFR Part 94

[Docket No. 91–200]

Change in Disease Status of Poland Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations by adding Poland to the list of countries declared to be free of foot-and-mouth disease. There have been no outbreaks of rinderpest in Poland for the past 70 years, and we have determined that foot-and-mouth disease has been eradicated there. We are also adding Poland to the list of countries that, although declared free of rinderpest and foot-and-mouth disease, are subject to special restrictions on the importation of their meat and other animal products into the United States. This revision relieves restrictions on the importation into the United States, from Poland, of

ruminants and swine, and fresh, chilled, and frozen meat of these animals.

However, Poland is not included in the lists of countries declared to be free of hog cholera and swine vesicular disease. Therefore, the importation from Poland of swine and fresh, chilled, and frozen meat from swine continues to be restricted because of these diseases.

EFFECTIVE DATE: May 26, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. John Blackwell, Senior Staff Microbiologist, Import-Export Products Staff, VS, APHIS, USDA, room 756–A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7885.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) regulate, among other things, the importation into the United States of certain animals, meat, and animal products. These regulations are designed, among other things, to prevent the introduction into the United States of rinderpest, foot-and-mouth disease, African swine fever, hog cholera, swine vesicular disease, and viscerotropic velogenic Newcastle disease.

Section 94.1(a)(1) of the regulations provides that rinderpest or foot-and-mouth disease exists in all countries of the world except those listed in § 94.1(a)(2), which are declared to be free of these diseases.

In a proposed rule published in the Federal Register on October 30, 1991 (56 FR 55844–55846), Docket No. 91–044) we proposed to amend the regulations by adding Poland to the list of countries declared to be free of foot-and-mouth disease. We also proposed to add Poland to the list of countries that, although declared free of rinderpest and foot-and-mouth disease, are subject to special restrictions on the importation of their meat and other animal products into the United States.

Comments on the proposed rule were required to be received on or before December 30, 1991. We received four comments in favor of the proposal as written. One commenter represented a Polish farmer's cooperative; the other three comments were received from a Polish meat processing plant, a U.S. construction company, and a U.S. food processing company. Based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule without change.

The effect of this action is to relieve certain prohibitions and restrictions on the importation into the United States, from Poland, of ruminants and swine, and fresh, chilled, and frozen meat of these animals. However, Poland is not included in the lists of countries declared to be free of hog cholera and swine vesicular disease. Therefore, the importation form Poland of swine and fresh, chilled, and frozen meat from swine continues to be restricted because of these diseases.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause 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.

This rule removes the prohibition on the importation into the United States of live ruminants and fresh, chilled, and frozen meat of ruminants from Poland. Importation of live swine and fresh, chilled, or frozen meat from swine from Poland continues to be restricted under 9 CFR part 94 since Poland has not been declared free of hog cholera and swine vesicular disease.

In 1988, Poland produced about 10 million head of cattle and exported about 563 thousand head of cattle to its traditional trading partners, mainly in Europe. Total exports of live animals from Poland represented less than 8 percent of world trade in live animals. In addition to live animals, Poland also exported about $178 million worth of fresh, chilled, and frozen meat in 1988. This represented about 0.8 percent of the total world exports of fresh, chilled, and frozen meat during that year.

In comparison, in 1987, the United States produced about 100 million head of cattle on approximately 1.2 million farms. The United States also exports 360 thousand live cattle to other countries annually, while it imports about 1.3 million cattle. Currently, bilateral trade between the United States and Poland represents a very small fraction of their respective total trade. The United States exported $302 million worth of goods and services to Poland in 1988, and, in return, it imported $418 million worth of goods and services. Both of these figures represent less than 0.1 of 1 percent of the total U.S. trade.

Based on available information, the Department does not anticipate a major increase in Polish exports of live ruminants or of fresh, chilled, and frozen meat to the United States as a result of this rule. Since Poland is already trading in international markets, the addition of Poland to the list of countries declared free of rinderpest and foot-and-mouth disease is unlikely to change the competitive trade position of the United States. Furthermore, Poland is unlikely to disrupt established trade relationships with traditional European trading partners by diverting a significant amount of its exports of live ruminants or fresh, chilled, and frozen meat to the United States. Increases in imports of live animals from Poland are also highly unlikely because of high transportation costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This final rule adds Poland to the list of countries declared to be free of foot-and-mouth disease and to the list of countries that, although declared free of rinderpest and foot-and-mouth disease, are subject to special restrictions on the importation of their meat and other animal products into the United States. All State and local laws, regulations, and policies that are in conflict with this rule are preempted. No retroactive effect is to be given to this rule. This rule does not require administrative proceedings before parties may file suit in court.

Paperwork Reduction Act

The information collection provisions that are included in this document have been approved by the Office of Management and Budget under control number 0579–0015.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, African swine fever, Exotic Newcastle disease, Foot-and-mouth

disease, Fowl pest, Garbage, Hog cholera, Rinderpest, Swine vesicular disease.

Accordingly, 9 CFR part 94 is amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 147a; 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) is amended by adding "Poland," immediately after "Papua New Guinea,".

§ 94.11 [Amended]

3. In § 94.11, the first sentence in paragraph (a) is amended by adding "Poland," immediately after "Papua New Guinea,".

Done in Washington, DC, this 20th day of April 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–9600 Filed 4–23–92; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 361

RIN 3064–AB12

Minority and Women Outreach Program

AGENCY: Federal Deposit Insurance Corporation "FDIC".

ACTION: Final rule.

SUMMARY: This rule is issued to establish in regulatory form an outreach program to maximize the participation of minorities and women, and firms owned by minorities and women, in all contracts awarded by FDIC. The rule is authorized by provisions of the Financial Institutions Reform, Recovery, and Enforcement act of 1989 ("FIRREA"). It is intended to ensure the participation of firms owned or controlled by minorities and women in contracts awarded by FDIC or its agents.

EFFECTIVE DATE: May 26, 1992.

FOR FURTHER INFORMATION CONTACT: Paul R. Barnes, Deputy Director, Minority and Women Outreach Program, Office of Equal Opportunity, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, (202) 898–6746.

SUPPLEMENTARY INFORMATION: On February 13, 1990, the FDIC adopted an interim program to ensure, to the maximum extent possible, that firms owned by minorities and women are given the opportunity to participate fully in all contracts that the FDIC enters into for goods and services. These contracts typically cover services performed in conjunction with the FDIC's liquidation activities, administrative and legal services.

A notice entitled "Interim Minority and Women Outreach Program: Contracting for Goods and Services" was published for public comment in 55 FR 10112 (March 19, 1990). No comments were received with respect to that notice.

Final Rule

The final rule includes the following elements: Identification of minority and women owned firms capable of providing goods and services to the FDIC; certification of identified firms; promotion of the program; guidelines for the solicitation of contracts that promote the participation of minority and women-owned firms in the FDIC contracting; and the oversight and monitoring of the program.

The provisions of the interim policy statement have been substantially retained, although several have been shortened and simplified.

Executive Order 12291

This rule concerns the procurement of services for FDIC management and administrative purposes and is not a regulation or rule for the purposes of Executive Order 12291. The regulation has no significant effect beyond the internal operating procedures of the FDIC. The Director, Office of Management and Budget, by memorandum dated December 14, 1984, withdrew certain types of regulations from an exemption of procurement regulations from Executive Order 12291. This rule does not fall within the specified types.

Regulatory Flexibility Act

The FDIC is not required by section 553 of title 5, United States Code, or any other law to publish a general notice of proposed rulemaking for this rule because it is exempt as an interpretative rule under § 553(b). Because advance publication is not required, a regulatory flexibility analysis is not required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 12 CFR Part 361

Government contracts, Lawyers, Legal services, Minority businesses, Women businesses.

For the reasons set forth in the preamble, chapter III of title 12 of the Code of Federal Regulations is amended by adding new part 361 to subchapter B to read as follows:

PART 361—MINORITY AND WOMEN OUTREACH PROGRAM—CONTRACTING

Sec.

361.1 Purpose.
361.2 Policy.
361.3 Definitions.
361.4 Scope.
361.5 Oversight and monitoring.
361.6 Outreach.
361.7 Certification.
361.8 Solicitation of non-legal services.
361.9 MWOB joint ventures.
361.10 Subcontracting.
361.11 Solicitation and awards for legal services.

Authority: 12 U.S.C. 1833e.

§ 361.1 Purpose.

(a) The purpose of the FDIC Minority and Women Outreach program, ("MWOP" or "Program") is to ensure that firms owned by minorities and women are given the opportunity to participate fully in all contracts entered into by the FDIC.

(b) This part is issued by the Office of Equal Opportunity ("OEO"). Authority is derived from the Financial Institutions Reform, Recovery, and Enforcement Act ("FIRREA") of 1989, title XII, section 1216(c), which requires the FDIC to prescribe regulations establishing and overseeing a minority outreach program ensuring inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by the FDIC with public or private sector contractors.

§ 361.2 Policy.

It is the policy of the FDIC that minorities and women and entities owned by minorities and women shall have the maximum practicable opportunity to participate in contracts awarded by the FDIC.

§ 361.3 Definitions.

For the purposes of this part:

(a) *Minority and/or women-owned business* ("MWOB") means firms at least fifty-one (51) percent owned and controlled by one or more minorities and/or women. In the case of publicly owned companies, at least fifty-one (51) percent of its voting stock must be owned and controlled by minorities and/or women. Additionally, the management and daily business operations must be controlled by one or more such individuals.

(b) *Joint venture (non-legal services)* means an arrangement in which twenty-five (25) percent or more of the duties are performed by the MWOB and the MWOB is compensated proportionally to its duties. Additionally, twenty-five (25) percent or more of the management and daily business operations must be controlled by such individuals.

(c) *Co-counseling (legal services)* means an association between two or more attorneys or law firms for the joint provision of legal services.

(d) *Legal services* means all services provided by attorneys or law firms (including services of support staff).

(e) *Minority* means any Black American, Native American Indian, Hispanic American, or Asian American.

§ 361.4 Scope.

The MWOP applies to all contracts entered into by the FDIC, whether public or private. The MWOP is incorporated into FDIC policies and guidelines governing contracting and the retention of outside services.

§ 361.5 Oversight and monitoring.

(a) The FDIC Office of Equal Opportunity has overall responsibility for nationwide MWOP oversight, which includes, but is not limited to, the monitoring, review and interpretation of MWOP regulation. In addition, the OEO is responsible for providing the FDIC with technical assistance and guidance to facilitate the identification, registration, and solicitation of minority and women-owned businesses.

(b) Each FDIC office and division that performs contracting or outreach activities shall submit information to the OEO on a quarterly basis, or upon request. Quarterly submissions will include, at a minimum, statistical information on contract awards and solicitations by designated demographic categories and related outreach activities. Additionally, for contracts requiring a subcontracting plan, the prime contractor is required to maintain statistical and outreach data and information regarding the implementation of the subcontracting plan.

§ 361.6 Outreach.

(a) Each regional office and consolidated site including the Legal Division, involved in contracting with the private sector will designate one or more MWOP coordinators. The coordinators will perform outreach activities for the Program and act as liaison between the FDIC and the public on MWOP issues. On a quarterly basis, or as requested by the OEO, the coordinators will report to the OEO on their implementation of the Program.

(b) Outreach includes the identification and registration of MWOBs who can provide goods and services utilized by the FDIC. This includes distributing information concerning the MWOP and providing appropriate registration materials for use by vendors and/or contractors. The identification of MWOBs will primarily be accomplished by:

(1) Obtaining various lists and directories of minority and women-owned firms maintained by other federal, state and local governmental agencies;

(2) Participating in conventions, seminars and professional meetings comprised of, or attended predominately by, MWOBs;

(3) Conducting seminars, meetings, workshops and other various functions to promote the identification and registration of MWOBs;

(4) Placing MWOP promotional advertisements indicating opportunities with FDIC in minority and women-owned media and,

(5) Monitoring to assure that FDIC staff interfacing with the contracting community are knowledgeable of, and actively promoting, the MWOP.

§ 361.7 Certification.

(a) In order to qualify as MWOB, each vendor or contractor must either:

(1) Self-certify ownership status by completing the appropriate section of the applicable registration form; *or*

(2) Submit a valid MWOB certification received from a federal agency, designated state or authorized local agency.

(b) Questions regarding minority and/or women ownership status will be resolved by the Corporate Services Branch, Division of Accounting and Corporate Services or, with respect to outside counsel, the FDIC Office of Inspector General, both located at 550 17th Street, NW., Washington, DC 20429.

§ 361.8 Solicitation of non-legal services.

(a) As part of the solicitation process, vendors and contractors, for non-legal services who submit a completed FDIC "Vendor Application," Form #3700/13, will be registered in the National Contractor System (NCS), an automated database. The NCS will be available to all FDIC offices involved in contracting activities. The NCS will be utilized to identify qualified MWOBs for inclusion on bid lists.

(b) To ensure that minority and women-owned firms are being included in each solicitation, the solicitation process will include:

(1) Disseminating procedures and information governing FDIC's solicitation rules and policies to MWOBs;

(2) Providing MWOBs technical guidance in the preparation of proposals;

(3) Allowing qualified MWOBs a 3% price advantage and additional technical consideration for competitively bid services; and

(4) Providing post-award technical guidance to unsuccessful MWOBs.

§ 361.9 MWOB joint ventures.

The FDIC encourages the formation of bona fide joint ventures to assist MWOBs in gaining access to FDIC contracting opportunities.

§ 361.10 Subcontracting.

Consistent with § 361.2 of this part, the contractor is required to carry out the FDIC minority and women-owned business contracting policy in the awarding of subcontracts to the fullest extent, consistent with the efficient performance of the awarded contract.

§ 361.11 Solicitation and awards for legal services.

(a) The Legal Division engages outside counsel primarily to provide legal services for liquidation, conservatorship and receivership activities. Outside counsel is selected on a competitive basis, as defined in the FDIC "Guide for Outside Counsel", P–2100–002–91 ("Guide"), as amended from time to time.

(b) To be retained as outside counsel, law firms must be free of conflicting interests, unless the Legal Division waives those conflicts in writing. Outside counsel must also enter into a Legal Services Agreement with the FDIC and agree to comply with the provisions of the "Guide".

(c) The Legal Division actively seeks to engage firms owned by minorities and women, both directly and in association with other firms. The Legal Division's Minority and Outreach Office provides assistance to minority and women-owned firms, and to minority and women attorneys within other firms, with respect to registration or other

matters relating to the retention of outside counsel.

By Order of the Board of Directors.

Dated at Washington, DC this 7th day of April, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-9517 Filed 4-23-92; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-276-AD; Amendment 39-8225; AD 92-08-14]

Airworthiness Directives; McDonnell Douglas Models DC-8-61, -62, -63, and -73 Series Airplanes Equipped With a Cargo Conversion Modification Installed in Accordance With Supplemental Type Certificate (STC) SA1802SO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Models DC-8-61, -62, -63, and -73 series airplanes equipped with a specific cargo conversion modification, that requires modification of the cargo area subfloor structure, installation of fuselage overhead external doubler straps, installation of transverse cusp membranes, and reattachment of the longitudinal cusp membrane to the seat track outboard flange. This amendment is prompted by the discovery of design deficiencies in the modification. The actions specified by this AD are intended to prevent reduced structural integrity of the cargo compartment and possible loss of cargo restraint capability during emergency landing conditions.

DATES: Effective May 29, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 29, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Rosenbalm Aviation, Inc., c/o Zantop International Airlines, Macon Municipal Airport, P.O. Box 10138, Macon, Georgia 31297. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dave Cundy, Aerospace Engineer, Airframe Branch, ACE-120A, FAA, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia 30349; telephone (404) 991-2910; fax (404) 991-3606.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Models DC-8-61, -62, -63, and -73 series airplanes equipped with a specific cargo conversion modification was published in the **Federal Register** on January 22, 1992 (57 FR 2494). That action proposed to require modification of the cargo area subfloor structure, installation of fuselage overhead external doubler straps, installation of transverse cusp membranes, and reattachment of the longitudinal cusp membrane to the seat track outboard flange.

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

The single commenter fully supports the proposal.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 11 airplanes of U.S. registry will be affected by this AD, that it will take approximately 380 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $12,500 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $367,400.

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from 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 airworthiness directive:

92-08-14. McDonnell Douglas: Amendment 39-8225. Docket 91-NM-276-AD.

Applicability: Models DC-8-61, -62, -63, and -73 series airplanes equipped with a cargo conversion modification installed in accordance with Supplemental Type Certificate (STC) SA1802SO, certificated in any category.

Compliance: Required within 180 days after the effective date of this AD, unless accomplished previously.

To prevent reduced structural integrity of the cargo compartment and possible loss of cargo restraint capability during emergency landing conditions, accomplish the following:

(a) Modify the cargo area subfloor structure and install fuselage overhead external doubler straps, in accordance with Rosenbalm Aviation, Inc., Service Bulletin DC-8 51-01, dated May 1, 1991.

(b) Install transverse cusp membranes and re-attach the longitudinal cusp membrane to the seat track outboard flange, in accordance with Rosenbalm Aviation, Inc., Service Bulletin DC-8 51-02, dated June 1, 1991.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Atlanta Aircraft Certification Office (ACO).

FAA, Small Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Atlanta ACO.

(d) 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.

(e) The modifications shall be done in accordance with Rosenbalm Aviation, Inc., Service Bulletins DC–8 51–01, dated May 1, 1991, and DC–8 51–02, dated June 1, 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 Rosenbalm Aviation, Inc., c/o Zantop International Airlines, Macon Municipal Airport, P.O. Box 10138, Macon, Georgia 31297. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(f) This amendment becomes effective on May 29, 1992.

Issued in Renton, Washington, on April 1, 1992.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–9621 Filed 4–23–92; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 91–NM–201–AD; Amendment 39–8221; AD 92–08–10]

Airworthiness Directives; Airbus Industrie Model A310 and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A310 and A300–600 series airplanes, that requires an inspection of the aft electrical stop switch on the horizontal actuator of the pilot's and copilot's seats, and replacement, if necessary; and an inspection of the clearance between the electrical and mechanical stops, and adjustment of the clearance or replacement of the horizontal actuator, if necessary. This amendment is prompted by a report indicating that insufficient clearance between the mechanical and electrical stops in the horizontal actuator on the pilot's and copilot's seats can lock the mechanism permanently or loosen the seat base, thereby making it impossible to lock. The actions specified by this AD are intended to prevent reduced ability of the flight crew to control the airplane.

DATES: Effective May 29, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 29, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2140; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Airbus Industrie Model A310 and A300–600 series airplanes was published in the **Federal Register** on December 2, 1991 (56 FR 61212). That action proposed to require an inspection of the aft electrical stop switch on the horizontal actuator of the pilot's and copilot's seats, and replacement, if necessary; and an inspection of the clearance between the electrical and mechanical stops, and adjustment of the clearance or replacement of the horizontal actuator, if necessary.

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

One commenter supports the rule as proposed.

One commenter requests clarification as to whether or not the requirements of the AD apply to both the forward and aft electrical stop switches. The commenter believes that the Sogerma-Socea service bulletin referenced in the rule is unclear in this regard. The FAA notes that the intent of the rule is to require inspection and replacement, if necessary, of the aft electrical stop switch. This is clearly specified in paragraph (a) of the rule.

Several commenters request that the compliance time be extended in order to accommodate parts delivery schedules. The FAA concurs. After reviewing data relating to the availability of necessary replacement parts and the delivery time for those parts, the FAA has determined that extension of the compliance time to 30 days is warranted to ensure that operators can comply with the requirements of the AD in a timely manner.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 50 airplanes of U.S. registry will be affected by this AD, that it will take approximately 0.5 work hour per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,375.

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from 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 airworthiness directive:

92-08-10. Airbus: Amendment 39-8221. Docket 91-NM-201-AD.

Applicability: Model A310 and A300-600 series airplanes; equipped with pilot and copilot seats manufactured by Sogerma-Socea, as listed in Sogerma-Socea Service Bulletin 25-188, Revision 1, dated July 2, 1991; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced ability of the flight crew to control the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) in accordance with Sogerma-Socea Service Bulletin 25-188, Revision 1, dated July 2, 1991:

(1) Perform a visual inspection to detect damage to the aft electrical stop switch (switch reference 3 in Figure 1 of the service bulletin). Prior to further flight, replace any damaged switches found, in accordance with the service bulletin.

(2) Determine the manufacturer's serial number on the pilot's and copilot's seats. If the seats have serial numbers that are less than number 261, or if the horizontal actuator has been replaced, accomplish the following:

(i) Measure the amounts of clearance between the electrical stop and the mechanical stop of the horizontal actuator.

(ii) If the clearance is less than 4mm, prior to further flight, adjust the clearance to more than 4mm in accordance with the service bulletin.

(iii) If there is no clearance, prior to further flight, replace the horizontal actuator and adjust the clearance to the proper dimension when fitting the new horizontal actuator, in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(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) The inspection shall be done in accordance with Sogerma-Socea Service Bulletin 25-188, Revision 1, dated July 2, 1991, which contains the following list of effective pages:

Page No.	Revision level	Date
1-2	1	July 2, 1991.
3-14	(Original)	Apr. 15, 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 Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(e) This amendment becomes effective on May 29, 1992.

Issued in Renton, Washington, on March 30, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-9622 Filed 4-23-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 91-NM-194-AD; Amdt. 39-8217; AD 92-08-06]

Airworthiness Directives; Boeing Model 737-200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737-200 series airplanes, that currently requires a limitation in the FAA-approved Airplane Flight Manual (AFM) to incorporate certain operational procedures to detect uncommanded changes in the altitude windows of the Mode Control Panel (MCP). This amendment requires modification of the currently-installed MCP. This amendment is prompted by the development of a new MCP that is not susceptible to uncommanded changes in the altitude window. The actions specified by this AD are intended to prevent uncommanded changes that could cause the airplane to fly at an altitude that was not selected by the pilot.

DATES: Effective May 29, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 29, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Skaves, Aerospace Engineer, Seattle Aircraft Certification Office, Systems & Equipment Branch, ANM-130S, FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2795; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 89-18-01, Amendment 39-6305 (54 FR 34500, August 21, 1989), which is applicable to certain Boeing Model 737-200 series airplanes, equipped with Sperry SP177 autopilots, was published in the **Federal Register** on November 1, 1991 (56 FR 56174). That action proposed to require modification of the currently-installed Mode Control Panel (MCP).

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

One commenter supports the rule as proposed.

Two commenters suggest that the economic analysis paragraph of the preamble be revised. These commenters state that there are no parts or labor costs involved with this action, since Boeing and Honeywell are covering these costs with regard to the modification. Therefore, only the costs associated with removal and reinstallation of the MCP's will be incurred by the operators. One commenter suggests that the number of work hours required to accomplish this removal and reinstallation should reflect only 1 work hour, rather than the 22 work hour figure that appeared in the preamble to the proposal. Further, the commenter states that labor costs to an airline modifying its own MCP's will be reimbursed at the normal hourly rate paid for warranty repairs. The FAA concurs and, based on this new data, the economic analysis paragraph, below, has been revised accordingly.

One commenter, Honeywell, requests that the final rule provide clarification as to how the modification will be performed. This commenter states that

reference to "replacement of MCP's," as stated in the cost analysis information in the preamble to the notice, could result in confusion. The FAA concurs that clarification of this point is necessary: Honeywell is producing modification kits for existing MCP's; once the MCP is modified with this kit, it is assigned a new part number. An operator can either install the modification kit and bill Honeywell for the costs, or send the MCP to a Honeywell service center for installation of the modification kit (at no cost to the operator). Upon request, a spare MCP may be loaned to an operator temporarily, until the operator's modification kit is installed. Honeywell has established a modification schedule to facilitate the flow of units to be modified for operators. To further clarify this point, the FAA has revised paragraph (b) of the final rule to specify that the required action is to "modify" the MCP, rather than "replace."

Another commenter, Boeing Commercial Airplane Group, encourages the FAA to consider granting operators alternative methods of compliance with AD 89-18-01, rather than issuing this additional AD action. The commenter questions the issuance of the proposed rule, since almost the entire population of affected MCP's has already been modified. Boeing states that 98 percent of the world population of MCP's installed in Model 737-200 autoland-equipped airplanes, or being held as spares, have been modified. Additionally, the commenter maintains that virtually all Model 737-200 autoland-equipped airplanes operated by United States carriers are equipped with modified MCP's. The FAA does not concur that this AD action is unnecessary. Even though the commenter implies that most MCP's have been modified already, this AD will ensure that all are modified, thus assuring the continued airworthiness of all affected airplanes. Further, the modification requirement of this AD is a positive fix to an unsafe condition that currently is addressed only by repetitive special operational procedures. The FAA has determined that long term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by special operating procedures. Long term special operating procedures may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual special procedures, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. The modification requirement is in consonance with that policy decision.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 201 Boeing Model 737-200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 87 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to remove and reinstall the MCP, and that the average labor rate is $55 per work hour. Modification of the MCP's will be accomplished by the manufacturer and vendor at no cost to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,785.

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from 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 amendment 39-6305 (54 FR 34500, August 21, 1989), and by adding a new airworthiness directive (AD), amendment 39-8217, to read as follows:

92-08-06. Boeing: Amendment 39-8217. Docket 91-NM-194-AD. Supersedes AD 89-18-01, Amendment 39-6305.

Applicability: Model 737-200 series airplanes; equipped with Sperry SP177 autopilot Flight Control Computers and Mode Control Panels (MCP); certificated in any category.

Compliance: Required as indicated unless previously accomplished.

To prevent uncommanded changes to the target altitude displayed in the altitude window of the autopilot mode control panel (MCP), accomplish the following:

(a) Within 10 days after September 5, 1989 (the effective date of AD 89-18-01, Amendment 39-6305), incorporate the following procedures into the Limitations Section of the FAA-approved Airplane Flight Manual (AFM). This may be accomplished by inserting a copy of this AD in the AFM.

"Autopilot Limitations

For airplanes with SP177 autopilot MCP. Flightcrews must use the following procedures:

1. Check MCP settings after any electrical power interruptions.

2. Following change in ALT selection in the MCP window, check ALT display to ensure desired altitude is displayed.

3. Closely monitor altitude during all altitude changes to ensure that the autopilot captures and levels off at the desired altitude.

Note: Standard 'callouts,' crew coordination, and cross-checking of MCP settings and flight instruments are necessary to detect any nonselected MCP display number changes."

(b) Within 6 months after the effective date of this AD, modify the MCP in accordance with Boeing Alert Service Bulletin 737-22A1096, dated April 12, 1990.

(c) After completion of paragraph (b) of this AD, remove the Airplane Flight Manual limitation required by paragraph (a) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

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

(f) The modification shall be done in accordance with Boeing Alert Service Bulletin 737–22A1096, dated April 12, 1990. 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(g) This amendment becomes effective on May 29, 1992.

Issued in Renton, Washington, on March 26, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 9624 Filed 4–23–92; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 91–NM–212–AD; Amdt. 39–8222; AD 92–08–11]

Airworthiness Directives; Boeing Model 737–300, 737–400, 737–500, and 757–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–300, 737–400, 737–500, and 757–200 series airplanes, that requires the inspection and replacement, if necessary, and eventual modification of certain TransAero single flight attendant seat pans. This amendment is prompted by in-service reports of damaged seat pans. The actions specified by this AD are intended to prevent injury to the flight attendants.

DATES: Effective May 29, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 29, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from TransAero Industries, Inc., 502 North Oak Street, Inglewood, California 90302–2942. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Terrell W. Rees, Seattle Aircraft Certification Office, Airframe Branch, ANM–120S; telephone (206) 227–2785. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–300, 737–400, 737–500, and 757–200 series airplanes was published in the **Federal Register** on November 18, 1991 (56 FR 58189). That action proposed to require the inspection and replacement, if necessary, and eventual modification of certain TransAero single flight attendant seat pans.

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

One commenter concurs with the AD as proposed.

One commenter requests that the term "flight attendant seats" be changed to "flight attendant seat pans" since this is a more accurate description of the items being inspected and modified. The FAA concurs and has changed the final rule accordingly.

One commenter requests an extension of the initial compliance time from 21 days to 6 months since a parts availability problem exists. Reportedly, TransAero advised an operator that no seat pan spares were currently available and that there were no plans to produce additional spares. The lack of available seat pan spares might ground an airplane until a replacement seat pan becomes available. Therefore, the commenter requests the additional time to establish a stock of spare pans. The FAA partially concurs. The FAA has determined that replacement pan kits will be available from TransAero. (TransAero has confirmed, through Boeing, the availability of the kits.) Operators can order the kits from TransAero prior to beginning the inspections required by this AD. After re-evaluating the available data, the FAA has determined that extending the compliance time for the initial inspection from 21 to 60 days will provide an acceptable level of safety.

The same commenter also requests that the compliance time for the repetitive inspections be increased to at least 375 flight hours. This equates to a "B" check period for that operator. Adoption of the proposed compliance time of 30 days would require special scheduling of the inspection/repair required by this proposed AD, at additional expense over the estimated economic analysis. The FAA agrees that the interval can be extended somewhat. The FAA's intent was that the repetitive inspections be done during a time of regularly scheduled maintenance, when special equipment and trained personnel would be available, if needed. Therefore, the FAA has revised the final rule to extend the compliance time to 375 flight hours. This extension will not adversely affect safety.

The same commenter requests that the part number of the modified seat pan be identified by a new part number. The commenter is concerned that operators may be unable to distinguish between modified and unmodified units in future seat purchases without extensive incoming inspections; this could result in stocking and compliance problems. This commenter asks that action on this rule be delayed until TransAero assigns a new identification number to the modified seat pan. The FAA does not concur. Although assigning new part numbers to modified components is a common industry practice, TransAero has not indicated that it intends to do so with the seat pans at this time. The FAA does not consider it prudent or warranted to delay action on this rulemaking action in anticipation of such a decision being made by TransAero. Further, the FAA is concerned only that a positive identification means is provided to distinguish different versions of the pans. The required installation of placards will meet these identification needs.

Two commenters suggest that the applicability of the rule not include all airplanes in the specified series, but have an "end line position number." The FAA infers that these commenters consider an "end number" to be warranted since the new modified seats apparently will be installed on newer airplanes in production, and these airplanes should not have to be inspected. TransAero currently cannot define an end line number because new production seats are still being delivered to operators without the modifications (required by this rule) incorporated. Additionally, no satisfactory means have been proposed to deal with the potential swapping of seat assemblies and/or pans between airplanes. Therefore, in order to ensure corrective action is taken on all subject seat pans on all noted airplane models, an "open ended" applicability is necessary.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 775 Model 737 and 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 426 airplanes of U.S. registry will be affected by this AD. It is estimated that the inspection will require an average of approximately 1 work hour per airplane to accomplish, and that the labor charge will be $55 per work hour. Based on these figures, the total impact of the AD with regard to the initial inspection requirement is estimated to be $23,430.

It is estimated that the modification will require approximately 1 work hour per seat to accomplish, and that the average labor charge will be $55 per work hour. The approximate cost of the required modification kits is $228 per seat. Based on these figures and an average of 2 affected seats per airplane, the total cost impact of the AD with regard to the modification requirement is approximately $241,116.

Based on the figures discussed above, the total cost impact of the AD on U.S. operators is estimated to be $264,546.

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from 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 airworthiness directive:

92-08-11. Boeing: Amendment 39-8222. Docket 91-NM-212-AD.

Applicability: Model 737-300, 737-400, and 737-500 series airplanes, and Model 757-200 series airplanes; equipped with TransAero P/N 91465 series single flight attendant seats identified in TransAero Service Bulletin No. 192, Revision C, dated August 12, 1991, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the seat pans and possible injury to flight attendants, accomplish the following:

(a) Within 60 days after the effective date of this AD, inspect the front edge of the affected seat pans for areas of abnormal flexibility in accordance with paragraph C. of TransAero Service Bulletin No. 192, Revision C., dated August 12, 1991.

(1) If no damage is detected, repeat the inspection at intervals not to exceed 375 flight hours.

(2) If damage is detected, prior to further flight, accomplish either subparagraph (a)(2)(i) or (a)(2)(ii):

(i) Install a placard stating that the damaged seat is not to be occupied; or

(ii) Replace the seat pan with a serviceable seat pan of the same part number, and continue to inspect thereafter at intervals not to exceed 375 flight hours in accordance with paragraph (a) of this AD.

(b) Within 18 months after the effective date of this AD, modify all single flight attendant seat pans in accordance with TransAero Service Bulletin No. 192, Revision C, dated August 12, 1991.

(c) The inspections required by paragraph (a) of this AD may be terminated upon accomplishing the modification described in TransAero Service Bulletin 192, Revision C, dated August 12, 1991.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

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

(f) The inspection and modification shall be done in accordance with TransAero Service Bulletin No. 192, Revision C, dated August 12, 1991, which contains the following list of effective pages:

Page No.	Revision level	Date
Cover	C	August 12, 1991.
Sheets i, ii, and iii.	C	(Not dated).
iv	(None)	(Not dated).
1-24	(None)	(Not dated).

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 TransAero Industries, Inc., 502 North Oak Street, Inglewood, California 90302-2942. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

(g) This amendment beocmes effective on May 29, 1992.

Issued in Renton, Washington, on March 30, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-9625 Filed 4-23-92; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 91-NM-95-AD; Amdt. 39-8223; AD 92-08-12]

Airworthiness Directives; Boeing Model 747-400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747-400 series airplanes, that requires modification to the cargo compartment and engine fire detection and extinguishing systems. This amendment is prompted by reports of crossed wiring and plumbing in the cargo compartment smoke detection system and engine fire extinguishing systems on Boeing airplanes of similar design. Incorrectly installed fire detection and extinguishing systems could result in the failure to properly detect or extinguish a

fire in the cargo compartment or in an engine.

DATES: Effective May 29, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 29, 1992.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Regimbal, Aerospace Engineer, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2687; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747-400 series airplanes was published in the **Federal Register** on November 21, 1991 (56 FR 58653). That action proposed to require modification to the cargo compartment and engine fire detection and extinguishing systems.

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

Two commenters request that the proposed 12-month compliance time be extended. One of the commenters requests a compliance time of 24 months in order to accommodate a 30-week parts delivery schedule. The other commenter suggests that the compliance time should be extended to 48 months, since the integrity of the fire protection systems was verified at the time of first delivery; and properly performed functional tests, as described in the maintenance manual, would preclude crossed-wiring. Both commenters state that the proposed 12-month compliance time would require cycling each airplane to its maintenance base for an extended hold in order to incorporate the required modification, resulting in substantial resource allocations.

Upon further consideration, the FAA concurs that the compliance time can be extended to 24 months without compromising safety. This compliance time is similar to that of other AD's issued relating to this subject. The final rule has been revised accordingly.

One commenter requests that the final rule cite the latest revisions to Boeing Service Bulletins 747-26-2143 and 747-26-2168 to ensure that additional work to further prevent crossed-wiring is accomplished. The FAA does not concur, since these service bulletin revisions have not yet been released. The FAA is aware that the changes that are to be incorporated in the revised service bulletins are minor with regard to the procedures for prevention of crossed-wiring. However, once the service bulletin revisions are reviewed and approved by the FAA, the FAA may consider requests from operators who wish to comply with these latest service bulletin revisions as alternative methods of compliance with this AD, in accordance with the provisions of paragraph (d).

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 102 Model 747-400 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 18 airplanes of U.S. registry will be affected by this AD. For 16 of these airplanes, the FAA estimates that it will take approximately 185 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts for these airplanes will cost approximately $11,263 per airplane, bringing the total cost per airplane to $21,438. For the remaining two airplanes, the FAA estimates that it will take 37 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Requried parts for these airplanes will cost approximately $4,092 per airplane, bringing the total cost per airplane to $6,127. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $355,262.

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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from 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 airworthiness directive:

92-08-12. Boeing: Amendment 39-8223. Docket 91-NM-95-AD.

Applicability: Model 747-400 series airplanes, up to and including line position 839, certificated in any category.

Compliance: Required within the next 24 months after the effective date of this AD, unless accomplished previously.

To preclude cross connection of cargo compartment and engine fire protection wiring and plumbing during maintenance, accomplish the following:

(a) For airplanes identified in Boeing Service Bulletin 747-26-2143, Revision 1, dated August 15, 1991: Modify the cargo compartment fire extinguishing system plumbing and wiring in accordance with that service bulletin.

(b) For airplanes identified in Boeing Service Bulletin 747-26-2164, dated February 14, 1991: Modify the engine fire control module in accordance with that service bulletin.

(c) For airplanes identified in Boeing Service Bulletin 747-26-2168, dated March 28, 1991: Modify the cargo compartment smoke detection system wiring in accordance with that service bulletin.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(e) 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.

(f) The modifications shall be done in accordance with Boeing Service Bulletin 747-26-2164, dated February 14, 1991; Boeing Service Bulletin 747-26-2168, dated March 28, 1991; and Boeing Service Bulletin 747-26-2143, Revision 1, dated August 15, 1991, which includes the following list of effective pages:

Page Nos.	Revision level	Date
1, 3-8, 18-20, 33, 45-50, 54, 61-62, 64-87.	1	Aug. 15, 1991.
2, 9-17, 21-32, 34-44, 51-53, 55-60, 63.	(original)	Dec. 20, 1990.

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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington, 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(g) This amendment becomes effective on May 29, 1992.

Issued in Renton, Washington, on April 1, 1992.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-9623 Filed 4-23-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 92-43]

Definition and Extension of Port Limits of Rio Grande City, TX

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations pertaining to the field organization of Customs by defining and extending the geographical limits of the port of entry of Rio Grande City, Texas. The proposed change is being made as part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources and to provide better service to carriers, importers, and the general public.

EFFECTIVE DATE: May 26, 1992.

FOR FURTHER INFORMATION CONTACT: Linda Walfish, Office Of Inspection and Control (202-566-8648).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources and to provide better service to carriers, importers, and the general public, Customs published a notice in the **Federal Register** on October 24, 1991 (56 FR 55102) proposing to amend § 101.3, Customs Regulations (19 CFR 101.3), by defining and extending the geographical limits of the port of entry of Rio Grande City, Texas. In the list of Customs regions, districts, and ports of entry set forth in § 101.3(b), Customs Regulations, Rio Grande City is listed as a port of entry in the Laredo, Texas, Customs District within the Southwest Region.

No comments were received from the public in response to the notice setting forth the proposal. Accordingly, Customs has determined to adopt the proposal as set forth in the notice. The list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations, is amended accordingly.

Limits of Port of Entry

The geographical limits of the port of entry of Rio Grande City are as follows: On the east, from a point-of-beginning on the United States-Mexico international boundary, directly north to the intersection of U.S. Highway 83 and FM (Farm to Market)-2221, north and then east on FM-2221 to FM-492, east on FM-492 to FM-681, and north on FM-681 to FM-1017; on the north, west on FM-1017 to the intersection of FM-1017 and FM-755 at the Village of La Gloria, south on FM-1017/755 and then west on FM-1017 to FM-2686, and west on FM-2686 to FM-649; on the west, south on FM-649 to U.S. Highway 83, and from the interaction of FM-649 and U.S. Highway 83 directly south to the United States-Mexico international boundary; on the south, east along the United States-Mexico international boundary to the point-of-beginning.

Authority

This change is made under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66 and 1624.

Regulatory Flexibility Act and Executive Order 12291

Although Customs solicited public comments, no notice of proposed rulemaking was required pursuant to 5 U.S.C. 553 because this matter relates to agency management and organization, and for the reason this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In addition, because this document relates to agency management and organization, it is not subject to E.O. 12291.

Drafting Information

The principal author of this document was Francis W. Foote, Regulations and Disclosure Law Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 101

Customs duties and inspections, Exports, Imports, Organization and functions (Goverment agencies).

Amendment to the Regulations

Part 101, Customs Regulations (19 CFR part 101) is amended as set forth below:

PART 101—GENERAL PROVISIONS

1. The authority citation for part 101 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624.

§ 101.3 [Amended]

2. The list of Customs regions, districts, and ports of entry in § 101.3(b) is amended by adding the words ", including the territory described in T.D. 92-43" before the period after "Rio Grande City" in the column headed "Ports of entry" in the Laredo, Texas, District of the Southwest Region.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: March 31, 1992.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 92-9630 Filed 4-23-92; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 905

[Docket No. R-92-1535; FR-2984-C-03]

RIN 2577-AA92

Termination of Consolidated Supply Program; Correction

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

ACTION: Final rule; correction.

SUMMARY: On March 6, 1992 (57 FR 8065), the Department published in the Federal Register a final rule which terminated the Department's Consolidated Supply Program, codified at 24 CFR part 965, subpart G, and 24 CFR 905.175(f). The final rule also made conforming amendments to § 905.640(c) and § 968.240(c), which referenced to CSP. However, 24 CFR 905.640 was redesignated and revised as § 905.639 by a final rule published on February 14, 1992 (57 FR 5514, 5557). The purpose of this document is to correct this citation in the March 6, 1992 final rule.

EFFECTIVE DATE: April 6, 1992.

FOR FURTHER INFORMATION CONTACT: Willima 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.)

Accordingly, the following correction is made to FR Doc. 92-5231, published on March 6, 1992 at 57 FR 8065:

PART 905—[AMENDED]

1. The authority citation for 24 CFR part 905 continues to read:

Authority: 42 U.S.C. 1473aa, 1437bb, 1437cc, 1437ee; 25 U.S.C. 450e(b); 42 U.S.C. 3535(d).

2. On page 8073, the amendatory instruction for item 3 in the second column and the regulatory text for § 905.640 at the top of the page in the third column is corrected to read as follows:

3. In § 905.639, paragraph (c) is revised to read as follows:

§ 905.639 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).

* * * * *

Dated: April 20, 1992.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 92-9606 Filed 4-23-92; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 8414]

RIN 1545-AP63

Authority To Prescribe or Modify Seals

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the authority contained within section 7514 of the Internal Revenue Code (the "Code") to prescribe or modify seals of office for the district directors of internal revenue and other officers or employees of the Treasury Department to whom any of the functions of the Secretary of the Treasury are currently delegated. The amendment prescribes a seal of office for the District Director of Internal Revenue at Ft. Lauderdale, Fla.; Houston, Texas; Laguna Niguel, CA; Las Vegas, Nevada; Sacramento, CA; and San Jose Dist.; the Assistant Commissioner (International); the Director, Internal Revenue Service Center, Southwest Region, Ogden, Utah; the Director, Internal Revenue Service Detroit Computing Center, Detroit, Michigan; and the Director, Internal Revenue Compliance Center, Southwest Region, Austin, TX.

EFFECTIVE DATES: These regulations are effective on the following dates:

1. Section 301.7514-1(a)(2)(ii)—August 24, 1981 (District Director of Internal Revenue, Houston, Texas); March 3, 1985 (District Director of Internal Revenue, Reno, NV); and June 6, 1986 (District Director of Internal Revenue, Ft. Lauderdale, Fla.)

2. Sections 301.7514-1(a)(2)(iii) and (a)(2)(iv)—October 1, 1983.

3. Sections 301.7514-1(a)(2)(v) and (a)(2)(vi)—March 3, 1985.

4. Section 301.7514-1(a)(3)—February 27, 1986.

5. Section 301.7514-1(a)(5)(ii)—January 24, 1985.

6. Section 301.7514-1(a)(6)—October 1, 1988.

7. Section 301.7514-1(a)(7)—September 18, 1989.

FOR FURTHER INFORMATION CONTACT: Cheryl L. Oseekey of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:IT&A:07 (202-566-3388, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Procedure and Administration Regulations (26 CFR 301) under section 7514 of the Code and is issued under the authority contained in section 7805 (68A Stat. 917; 26 U.S.C. 7805). Section 7514 was enacted by section 91 of the Technical Amendments Act of 1958 (Pub. L. 85-866, 72 Stat. 1667) and amended by section 1906(b)(13)(A),(M) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1834, 1835).

Explanation of Provisions

Section 7514 of the Code authorizes the Secretary of the Treasury to prescribe or modify seals of office for the district directors of internal revenue and other officers or employees of the Treasury Department to whom any of the functions of the Secretary of the Treasury are delegated. Seals have been previously prescribed by the Secretary, under this authority. This document contains amendments so that a seal of office is prescribed for each district director, officer, or employee of the Treasury Department currently authorized to affix a seal to those certain documents specified within section 7514. The amendments reflect additions, deletions, relocations, and changes in the name of offices that have occurred subsequent to the latest prior amendment of the regulations.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these rules were

submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these amendments is Cheryl L. Oseekey of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in developing the rules.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Alimony, Bankruptcy, Child support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Oil pollution, Penalties, Pensions, Reporting and recordkeeping requirements, Statistics, Taxes.

Adoption of Amendments to the Regulations

Accordingly, title 26, part 301 of the Code of Federal Regulations is amended as follows:

Paragraph 1. The authority citation for part 301 continues to read in part:

Authority: Sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805 * * *

Par. 2. Section 301.7514–1 is amended as follows:

1. Paragraph (a)(2)(ii) is amended by removing "District Director of Internal Revenue, Reno, Nev.", and by adding in the appropriate locations "District Director of Internal Revenue, Ft. Lauderdale, Fla.", and "District Director of Internal Revenue, Houston, Texas.

2. New paragraphs (a)(2)(iii) through (a)(2)(vi) are added to read as set forth below.

3. Paragraph (a)(3) is revised to read as set forth below.

4. Paragraph (a)(5)(ii) is amended by removing "Director, Internal Revenue Service Center, Western Region, Ogden, Utah." and by adding in the appropriate location "Director, Internal Revenue Service Center, Southwest Region, Ogden, Utah".

5. Paragraph (a)(6) is revised to read as set forth below.

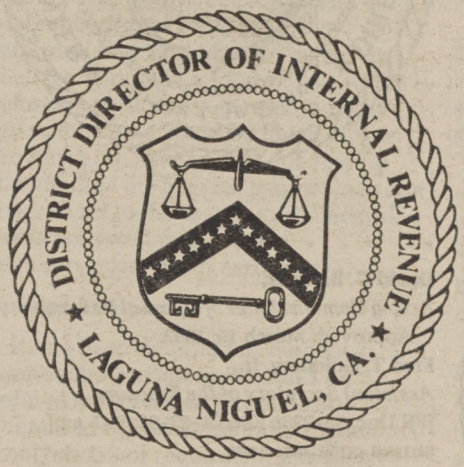
6. A new paragraph (a)(7) is added to read as set forth below.

§ 301.7514–1 Seals of office.

(a) * * *

(2) * * *

(iii) There is hereby established an official seal in and for each of the offices of district director of internal revenue listed in paragraph (a)(2)(iv) of this section. The seal is described as follows, and one such seal is illustrated below: A circle within which shall appear that part of the seal of the Treasury Department represented by the shield. Exterior to this circle and within a circumscribed circle in the form of a rope shall appear in the upper part the words "DISTRICT DIRECTOR OF INTERNAL REVENUE" and in the lower part the location of the office for which the seal is established.



(iv) The offices of district director of internal revenue for which seals are established in paragraph (a)(2)(iii) of this section are as follows:

District Director of Internal Revenue, Laguna Niguel, CA.,
District Director of Internal Revenue, Sacramento, CA.,
District Director of Internal Revenue, San Jose Dist.

(v) There is hereby established an official seal in and for the office of district director of internal revenue listed in paragraph (a)(2)(vi) of this section. The seal is described as follows, and illustrated below: A circle within which shall appear the Internal Revenue emblem. Exterior to this circle and within a circumscribed circle in the form of a rope shall appear in the upper part the words "DISTRICT DIRECTOR OF INTERNAL REVENUE" and in the lower part the location of the office for which the seal is established.

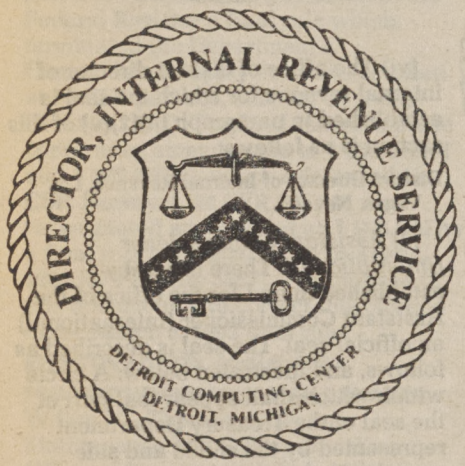
(vi) The office of district director of internal revenue for which the seal is established in paragraph (a)(2)(v) of this section is as follows:

District Director of Internal Revenue, Las Vegas, Nevada.

(3) *Assistant Commissioner (International).* There is hereby established in and for the office of the Assistant Commissioner (International) an official seal. The seal is described as follows, and illustrated below: A circle within which shall appear that part of the seal of the Treasury Department represented by the shield and side wreaths. Exterior to this circle and within a circumscribed circle in the form of a rope shall appear in the upper part the words "ASSISTANT COMMISSIONER (INTERNATIONAL)" and in the lower part "Washington, D.C. Internal Revenue Service".

* * * * *

(6) *Director of Internal Revenue Computing Center.* There is hereby established in and for the office of the Director of the Internal Revenue Computing Center an official seal. The seal is described as follows, and illustrated below: A circle within which shall appear that part of the seal of the Treasury Department represented by the shield. Exterior to this circle and within a circumscribed circle in the form of a rope shall appear in the upper part the words "DIRECTOR, INTERNAL REVENUE SERVICE" and in the lower part "Detroit Computing Center Detroit, Michigan".



(7) *Director of Internal Revenue Compliance Center.* There is hereby established in and for the office of the Director of the Internal Revenue Compliance Center an official seal. The seal is described as follows, and illustrated below: A circle within which shall appear that part of the seal of the Treasury Department represented by the shield and side wreaths. Exterior to this circle and within a circumscribed circle in the form of a rope shall appear in the upper part the words "DIRECTOR, INTERNAL REVENUE COMPLIANCE CENTER" and in the lower part "Southwest Region Austin, Tex".

* * * * *

David G. Blattner,
Acting Commissioner of Internal Revenue.
Approved: March 10, 1992.
Fred T. Goldberg, Jr.,
Assistant Secretary of the Treasury.
[FR Doc. 92-9288 Filed 4-23-92; 8:45 am]
BILLING CODE 4830-01-M

---

26 CFR Part 301

[T.D. 8415]

RIN 1545-AM45

Reimbursement to State and Local Law Enforcement Agencies

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide guidance to State and local law enforcement agencies in applying for reimbursement of expenses incurred in an investigation where resulting information furnished by the agency to the Internal Revenue Service substantially contributes to the recovery of Federal taxes with respect to illegal drug or related money laundering activities. The applicable law was amended by the Anti-Drug Abuse Act of 1988.

EFFECTIVE DATE: These regulations are effective for information first provided to the Service by a State or local law enforcement agency after Federal 16, 1989.

FOR FURTHER INFORMATION CONTACT: Gail M. Winkler of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:IT&A:Br4) or telephone (202) 566-5985 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On May 16, 1989, the Federal Register published (54 FR 21053) temporary regulation 26 CFR 301.7624-1T, under section 7624 of the Internal Revenue Code. On January 24, 1992, the **Federal Register** published (57 FR 2839) correcting amendments to the temporary regulations. On May 16, 1989, the **Federal Register** also published (54 FR 21073) a notice of proposed rulemaking by cross-reference to the temporary regulations. No comments were received in response to the notice of proposed rulemaking. Because no public hearing was requested, none was held. These final regulations adopt the temporary regulations as corrected.

Explanation of Provisions

Section 7624 of the Code gives the Internal Revenue Service discretion of reimburse a State or local law enforcement agency for expenses incurred in an investigation where resulting information furnished by the agency to the Service substantially contributes to the recovery of Federal taxes with respect to illegal drug or related money laundering activities. The regulations provide that the reimbursement allowable under this provision is limited to 10 percent of the amount received for Federal taxes, including additions to tax, and civil penalties, but not interest or criminal fines. However, no reimbursement is allowable with respect to expenses that have been or will be reimbursed from other sources, such as a Federal or State forfeiture program. The regulations also provide that reimbursement will not be paid unless the amount of taxes recovered is at least $50,000. This section applies to State law enforcement agencies including the District of Columbia, and local law enforcement agencies within the states and the District of Columbia.

Whether or not information furnished by a State or local law enforcement agency substantially contributes to the recovery of taxes is necessarily a determination based on facts and circumstances that can be made by the Service only on a case-by-case basis. Nevertheless, the regulations explain the type of information that the Service will consider as having "substantially contributed" to the collection of additional Federal taxes with respect to illegal drug or related money laundering activities. These rules provide guidance to law enforcement agencies concerning

the types of information that the Service generally finds highly useful in developing and prosecuting a Federal tax case involving illegal drug or related money laundering activities.

Where information provided by a State or local law enforcement agency substantially contributes to the collection of at least $50,000 in additional taxes, additions to tax and civil penalties with respect to illegal drug or related money laundering activities, the Service may provide reimbursement for reasonable investigative expenses, not otherwise reimbursed, up to a maximum of 10 percent of the taxes recovered. A special account has been established for this purpose to receive and expend funds.

A State or local law enforcement agency furnishing information to the Service must use Form 211A to apply for reimbursement under this section. An application for reimbursement may be filed with the Service as soon as the agency has made a final determination as to the amount of the expenses incurred and the amount received or to be received from other sources. However, no application will be considered by the Service if filed later than 30 days after the Service has notified the agency of the amount of taxes recovered. If more than one agency files an application for reimbursement with respect to the taxes recovered, the Service will use discretion in allocating the amount of reimbursement to be paid to each agency, but in no event shall the aggregate of amounts paid by the Service exceed 10 percent of the sum of additional Federal taxes recovered.

Section 7809(d) of the Code provides that reimbursement under section 7624 must be paid out of the amounts recovered as a result of information furnished by the State or local law enforcement agency which substantially contributed to the recovery. Congress did not provide for any separate appropriation of Federal funds for this purpose. For this reason, the Service must insure against the possibility of having to refund to the taxpayer amounts collected after these amounts have already been paid to a State or local law enforcement agency as reimbursement. Accordingly, the regulations provide that no reimbursement will be paid before expiration of the period of limitations for filing a claim for refund by the taxpayer or the determination of the taxpayer's liability becomes final. In general, no refund is allowable unless a claim for refund is filed by a taxpayer within 3 years from the time the return is filed or 2 years from the time the tax is paid, whichever is later. However, in many instances this period for filing a claim for refund will be extended. For example, if a taxpayer enters into an agreement to extend the period of limitations on assessment of tax, the period of limitations on filing a claim for refund as extended for 6 months after expiration of the period of limitations on assessment. Thus, in most cases, the payment of reimbursement under section 7624 would be delayed for a minimum of two years after the information is provided to the Service (i.e., the minimum period within which a refund may be claimed) and in many cases the delay could be much longer. However, an agency that adequately indemnifies the Service against loss due to a refund to the taxpayer of Federal taxes collected may receive reimbursement at an earlier time.

Special Analyses

It has been determined that these regulations are not major rules as defined in Executive Order 12291. Therefore, a final 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, prior to the Omnibus Budget Reconciliation Act of 1990, the notice of proposed rulemaking for the regulations was submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Gail M. Winkler of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices in the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Disclosure of information, Employment taxes, Estate tax, Excise taxes, Filing requirements, Gift tax, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes.

Adoption of Temporary Regulations as Final Regulations

Accordingly, the temporary regulations § 301.7624–1T in title 26 of CFR are adopted as final regulations subject to the following amendments.

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority for part 301 is amended in part by removing the citation "Section 301.7624–1T also issued under 26 U.S.C. 7624." and continues to read in part as follows:

Authority: Sec. 7805; 68A Stat. 917; 26 U.S.C. 7605 * * * § 301.7624–1T [Redesignated as § 301.7624–1]

§ 301.7624–1T [Redesignated as § 301.7224–1]

Par. 2. Section 301.7624–1T is redesignated as § 301.7624–1, and the section heading is amended by removing the language "(temporary)".

David G. Blattner,
Chief Operations Officer.
Approved: April 7, 1992.
Fred T. Goldberg, Jr.,
Assistant Secretary of the Treasury.

[FR Doc. 92–9539 Filed 4–23–92; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 75

[Order No. 1586–92]

Child Protection Restoration and Penalties Enhancement Act of 1990

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: These regulations under part 75, title 28 of the Code of Federal Regulations implement the Attorney General's responsibility under the Child Protection and Obscenity Enforcement Act of 1988 (subtitle N of title VII of Public Law 100–690, codified at 18 U.S.C. 2257) and the Child Protection Restoration and Penalties Enhancement Act of 1990 (subtitle A of title III of Public Law 101–647, amending 18 U.S.C. 2257). These Acts contain minimal statutory standards, enforceable before the issuance of supplementary regulations, which require producers of matters containing one or more visual depictions of actual sexually explicit conduct, as defined in 18 U.S.C. 2256(2)(A)–(D), 2257(h)(1), made after November 1, 1990, to keep records of the actual, previous, and assumed names, and of the date of birth, of each performer portrayed in such visual

depictions. The final Attorney General regulations promulgate supplementary standards governing compliance. These standards impose additional record-keeping requirements on producers of matters containing one or more visual depictions of actual sexually explicit conduct made after the effective date of these regulations, including that such producers maintain at least one recent and recognizable photo identification document in order to enhance the reliability of the identifications contained in these records. The regulations also specify the form and manner of affixation of a required statement describing the location of these records. This statement must be attached to all matters covered by the statute that are produced, manufactured, published, duplicated, reproduced, or reissued after the effective date of these regulations.

EFFECTIVE DATE: These regulations become effective May 26, 1992.

FOR FURTHER INFORMATION CONTACT: Patrick Trueman at U.S. Department of Justice, Child Exploitation and Obscenity Section, 1001 G St. NW., room 3131, Washington, DC 20530, (202) 514–5780. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On February 26, 1991, the Department of Justice agreed not to seek enforcement of the Child Protection Restoration and Penalties Enhancement Act of 1990 (subtitle A of title III of Public Law 101–647, amending 18 U.S.C. 2257) until regulations implementing the Act become effective. See Stipulation, *American Library Ass'n* versus *Thornburgh*, C.A. No. 91–0394–SSS (D.D.C. Feb. 26, 1991). This agreement not to enforce the Act extends to visual depictions of actual sexually explicit conduct made prior to the date upon which the implementing regulations become effective.

On July 1, 1991, the Attorney General published proposed regulations implementing the Act and invited public comment on the proposed regulations. 56 FR 29914 (July 1, 1991). In response six comments were received. The substance of the comments and the Attorney General's response are discussed below.

Discussion of Comments

Photo Marketing Association International ("PM") comments that compliance with this rule would be extremely difficult if photo processors are covered under the Act and this rule because they technically "produce" visual depictions of actual sexually explicit conduct. According to PM, photo processors often do not make visual inspections of slide or movie film. Further, even if photo processors do make prints, their visual inspection of these prints is cursory and there is no time to examine the prints' contents. Thus, there is often no way to know whether the material is sexually explicit.

Moreover, PM contends that a photo processor is not in the position to acquire the information required by the regulations. Even though the processor may have "produced" the images, he does not have direct contact with the person depicted in the picture. PM also questions how a photo processor logistically can attach a "statement" to a single photograph, slide or negative, if those matters come within the statutory or regulatory definition of "film". Finally, PM asks what should be done with developed sexually explicit film about which the photo processor cannot obtain the required information from the customer who submits the film for processing.

The Attorney General has responded to PM's concerns by fashioning a definition of the word "producer" which makes clear that an independent photo processor is not a "producer" within the meaning of the regulations. Section 75.1(c), *infra*.

Motion Picture Association of America, Inc. ("MPAA") comments that the requirement in § 75.8 that a statement regarding the location of required records that is affixed to a film be capable of being read by the average viewer is unduly intrusive and without foundation in the statute. MPAA contends that this requirement would intrude on the aesthetic prerogative of the producer. Moreover, MPAA argues, federal law enforcement officials can examine the film or tape frame by frame to discern the contents of the statement. MPAA attaches a sample frame demonstrating how the statement might appear in a fashion that is not visible to the general public but is still reviewable by federal law enforcement officials. The statute requires the statement to be affixed in such a manner or form as the Attorney General shall prescribe. (18 U.S.C. 2257(e)(1).) The Attorney General must render a reasonable interpretation of this requirement. Given that many films and videotapes already contain opening and closing credits, and, in some cases, FBI warnings, it is not unreasonable to require a producer to add one more statement.

MPAA next comments that the statute and proposed regulations would prohibit domestic distribution of many foreign-made films and suggests that the regulations either exclude works made outside the United States or be amended to allow distribution within the United States of such works as long as the distributor makes reasonable efforts to compile and maintain the records as to the age and identity of the performers depicted in the work. The Attorney General notes that Congress specifically included foreign films under 18 U.S.C. 2257(f)(4), and that distributors are expressly liable under that provision if they sell a foreign produced film that does not contain the required statement as to the location of the records. The regulations would be contrary to the explicit command of the statute if they excluded persons otherwise covered under section 2257(f)(4). In addition, MPAA's suggestion that distributors create and maintain records imposes an even more stringent burden on distributors than the statute. Section 2257(g)(3) states that mere distributors are not producers who must create and maintain records under the requirements of section 2257(a).

MPAA also states that the definition of the word *producer* in § 75.1(c) goes far beyond the statute's intended coverage, and, literally construed, could extend to commercial lenders or limited partners who finance production of a film. According to MPAA, hundreds of limited partners would be required to create and maintain records, and affix a statement to the matter regarding the location of the records. MPAA suggests that the regulations do no more than define a "producer" as one who "produces" a work, as that term is defined in the amended statute.

The Attorney General agrees that the proposed definition of the word *producer* in § 75.1(c) unintentionally covers too many entities that potentially could be involved in production. Consequently, this final rule narrows the meaning of the word "producer" to include any person who actually films, videotapes, or photographs the visual depiction of actual sexually explicit conduct (a "primary producer") and any person who produces, assembles, manufactures, publishes, duplicates, reproduces or reissues a book, magazine, periodical, film, videotape or other matter intended for commercial distribution that contains the visual depiction of actual sexually explicit conduct (a "secondary producer"). The final rule specifies that "producer" does not include photo processors, mere distributors, and any person engaged in any activity, other than those listed above, concerning a visual depiction of actual sexually explicit conduct, if such activity does not involve hiring, contracting for, managing, or otherwise arranging for the participation of the depicted performers.

MPAA further criticizes the requirement in § 75.6(c) that the information contained in the statement regarding the location of the records should be accurate as of the time the material is sold, distributed, redistributed, or rereleased. MPAA contends that this requirement unduly burdens individuals by obligating them to update information contained in the statement every time each copy of the work is sold or released. MPAA suggests that the information contained in the statement should be accurate when originally affixed to the work. The MPAA asserts that if information contained in the statement becomes outdated, for instance if the principal place of business changes or if a new custodian is designated, skilled federal investigators would have no difficulty updating the information to locate the new place of business or the new custodian.

The Attorney General disagrees with MPAA's suggestion that the producer should not be required to update the statement regarding the location of the records at the time the producer redistributes or rereleases materials. Section 2257(h)(3) includes, within the definition of a producer, one who reissues or reproduces covered matter. Section 2257(e)(1) requires a producer to affix a statement to covered matter describing where records "may be located." A statement that is outdated at the time that it is affixed does not indicate where an investigator, acting on the information contained in that statement, may locate records. Consequently, an outdated statement affixed to reissued or reproduced matter does not satisfy the statutory standard. Section 75.6(c) merely reflects that standard. It is worthy of note that § 75.6(c) does not require a producer to update the actual records concerning the performer, which must be accurate only as of the actual filming, videotaping, or photographing of the depiction of actual sexually explicit conduct.

MPAA finally contends that § 75.5 should require law enforcement officials to notify the producer before inspecting his records. According to MPAA, unannounced visits by federal law enforcement officials would disrupt a producer's operations and notice would not provide producers with an opportunity to fabricate necessary documents. Section 75.5 incorporates the statutory standard set forth in 18 U.S.C. 2257(c), which requires producers to make such records available to the Attorney General for inspection at all reasonable times. American Library Association, the Freedom to Read Foundation, the American Booksellers Foundation for Free Expression, The American Society of Magazine Photographers, the Council for Periodical Distributors Associations, the International Periodical Distributors Association, the National Association of Artists' Organizations, the National Campaign for Freedom of Expression, the Independent Video Retailers Association, Penthouse International, Ltd., Hank Londoner Photography, Inc., and Suze Randall Photography ("ALA commenters") jointly filed comments. First, they contend that the definition of "producer" in § 75.1(c) is inconsistent with the statutory definition of "produces" in 18 U.S.C. 2257(h)(3). Section 2257(h)(3) provides:

> The term "produces" means to produce, manufacture, or publish any book, magazine, periodical, film, video tape or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution or any other activity which does not involve hiring, contracting for managing, or otherwise arranging for the participation of the performers depicted.

The ALA commenters read the clause beginning with the phrase "or any other activity" as applying to all of section 2257(h)(3) and, consequently, contend that this clause excludes from the definition of "produces" "any activity which does not involve hiring, contracting for managing, or otherwise arranging for the participation of the performers depicted." In their view, § 75.1 impermissibly imposes recordkeeping obligations on individuals or companies that do not have direct contact with performers.

Like PM and MPAA, the ALA commenters also note that § 75.1(c) could be read to impose recordkeeping obligations on every person or company holding stock in a publishing company or a photography or film studio, and on photo-finishing laboratories, printers, and video duplicating companies. This would result in the creation of many duplicate sets of records and would "impose substantial burdens on persons who merely support expression financially but do not control artistic content."

As previously noted, the final regulations address the second of the ALA commenters' objections by narrowing the definition of producer in § 75.1(c). With regard to the first objection, however, the Attorney General rejects the ALA commenters' suggestion that the term "producer" should be limited to those involved in "hiring, contracting for, managing, or otherwise arranging for the participation of the depicted performers." Were section 2257(h)(3) interpreted that way, the clause "includ[ing] the duplication, reproduction, or reissuing of any such matter" would be read out of the statute, because such activities would not necessarily involve the hiring, contracting for, or managing of performers. Yet the statute clearly demonstrates Congress' intention to include such activities. Therefore, the activities of "duplication, reproduction, [and] reissuing" fall within the statutory definition of producing, regardless of their relationship to the participation of the performers, but mere distribution does not, nor do other activities unrelated to the hiring, contracting for, or managing of the performers. Section 75.1(c) of the final rule has been amended to incorporate this interpretation. As noted above, in response to PM's comments § 75.1(c)(4)(i) expressly includes photo processing among those "other activities" not included within the coverage of the statute or the regulations.

The ALA commenters also note that the regulations do not clarify the scope of the term "actual sexually explicit conduct." They contend that photographers and publishers fear that even though the images merely suggest that sexual activity is taking place, they may be required to keep records if actual sexual activity took place off camera. The Attorney General believes that the definition of "actual sexually explicit conduct" in 18 U.S.C. 2256 and case law interpreting that definition give adequate notice of the conduct covered by the statute.

The ALA commenters also contend that § 75.6 of the proposed regulations is unclear as to whether the location statement must contain every address where records are kept for each image that appears in the publication. If this were so, they contend, the "disclosure statement will in some cases exceed the length of the work itself." The final rule addresses this concern by permitting the "secondary" producer to publish its own address if it is the repository of photocopies of the primary producer's records. See §§ 75.2(b), 75.6(a)(3). In this manner, only one address need be printed.

The ALA commenters also read the proposed rule to require secondary producers to recreate the records each time an image is republished or reproduced, apparently by recontacting the model and by determining that the picture is recent and recognizable. As noted above, the actual records regarding the performers must be current only as of the date on which the

visual depiction was made, while the location statement must be current at the time of republication or reproduction.

These commenters believe that these regulations will cripple U.S. distribution of foreign made images and will impose an extreme burden upon small businesses. In their view, the Act would require photographers who work at home to print their name on all publications of their prints and to keep voluminous records, including records of every name ever used by the performers, for which the photographers will not have adequate storage space. This final rule does not impose any burden on foreign film distributors, or on small businesses with regard to performer's names, beyond the burden required by 18 U.S.C. 2257. As amended, this rule does not require photographers who work at home to put their name on publications already containing the name of a secondary producer when that secondary producer complies with § 75.2(b).

As the ALA commenters point out, the proposed regulations do not specify the length of time for which producers must maintain copies of the records. The Attorney General agrees that the final rule should specify such a time period. Consequently, § 75.4 has been amended to specify that the required records are to be kept as long as the producer is in business. If an organization is dissolved, the producer's custodian of records must keep the records for five years after dissolution.

Finally, the ALA commenters object to the description of the stipulation reached between the ALA, et al., and the U.S. Justice Department as the result of a lawsuit challenging the recordkeeping statute. They suggest that the "Supplementary Information" make clear that the Justice Department agreed not to enforce the Act until regulations become effective and not to seek enforcement with respect to visual depictions made prior to the effective date of the regulations. The Attorney General believes that the Act and the stipulation are clear, and that the existing language in the "Supplementary Information" accurately summarizes the stipulation's terms. For reference, a citation to the stipulation has been added.

The Association of American Publishers, Inc. joins the comments submitted by ALA commenters and expresses its concerns over the "potential impact that the present recordkeeping provisions, and the proposed regulations that would implement them, would have on responsible book publishers and those who distribute their works."

Morality in Media, Inc. ("MIM") argues that the proposed definition of producer in § 75.1(c) is too narrow because the plain language of 18 U.S.C. 2257(h)(3) is not limited to anyone who "provides the capital." Instead, section 2257 would arguably "encompass a bank that made a loan to the producer of film or to the publisher of a book and would also arguably encompass a 'small' stockholder of a company that manufactures films or books." Moreover, proposed § 75.1(c) "would also exempt from the statute's coverage the person who actually produces a film or publishes a magazine or manufactures so-called 'adult' materials but obtains the 'capital' from outside sources" and "a contract printer or person that contracts to duplicate videos for another person—because in both cases the 'capital' comes from another person."

MIM suggests that the definition of producer in § 75.1(c) parallel the dictionary definition of production, namely, the act of "making or manufacturing" or "to causing something to be, or to happen." Under MIM's interpretation, producers would include:

(1) "A person or group of persons, including an organized criminal enterprise, which arranges for the making of a 'hard core' pornographic film or the publication of a 'hard core' pornographic magazine;" (2) the "person or persons responsible for making a film;" (3) a "corporation that manufactures 'adult' videos, magazines or paperback books for mass distribution;" (4) a "publisher of 'hard core' pornographic magazines;" (5) a "contract printer that reproduces copies of 'hard core' pornographic magazines for a publisher;" and (6) a "subcontractor which duplicates a 'hard core' video for a corporation that is reissuing it." The Attorney General believes that the revised definition of "producer" in § 75.1(c) of the final rule accurately reflects Congress' definition of the term "produces" in 18 U.S.C. 2257(h)(3).

National Family Legal Foundation, American Family Association, Athletes and Business for Kids, Focus on the Family, National Christian Association, National Coalition Against Pornography, Religious Alliance Against Pornography ("National Family") suggest that the regulations should specify that they apply only to persons involved in commercial sales or transfers of material, and that the distributors referred to by 18 U.S.C. 2257(f)(4) do not include libraries, schools, and universities. Because the Attorney General interprets section 2257(f) of the statute, which prohibits "any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter (that does not contain a required statement)", to apply only to commercial transfers, § 75.1(d) of the final rule has been amended to make clear that distributors do not include libraries or lending institutions.

National Family also suggests that the regulations should include a provision "which would allow a producer to provide, in written form, a statement to third parties that all depictions within the matter (a) were produced prior to the effective date of the regulations, and/or (b) that the matter does not depict actual sexually explicit conduct; and/or (c) that the depictions are merely reproductions of depictions which were produced prior to the effective date of the regulations or were simulated not actual conduct." Any person who subsequently sold a work containing such a statement would be exempt from prosecution for sale of material that did not bear the statement required under the Act and its implementing regulations. In this manner, a distributor would not "have to determine whether the matter was produced before or after the effective date, and/or whether the depiction was 'actual versus simulated' sexual activity." However, a producer who provided a false statement that the material was produced before the effective date of the regulations, or that the depiction is of simulated, sexually explicit conduct, would be liable for a violation of the Act. The Attorney General agrees that such an exemption would enable producers to assure others in the chain of distribution that materials sold were not covered by the Act. Such an exemption has been included in § 75.7 of the final rule.

National Family also proffers three technical changes. First, it recommends that the word "legible" be inserted in § 75.2(b) of the regulations before the word "copy" so that the regulation makes clear that the photocopy must be readable. Section 75.2(a) of the final rule incorporates this suggestion. Second, it recommends that, because many hard-core and child pornographic works do not identify the performers by name, required records should be kept both according to name and according to title, number, or other similar identifier of each book, magazine, periodical, film, videotape or other matter to ensure efficient location of performers' records. This suggestion is reflected in § 75.3 of

the final rule. Finally, National Family recommends that since many producers of hard-core pornography commonly "create separate entities for each production and then 'go out of business'," the final rule should specify that if the producer is a corporation, the corporate record keeper should have a personal duty to maintain the records if the corporation is dissolved. The regulations should also specify that the records be maintained for a specified number of years after dissolution of the business. Section 75.4 incorporates this modification.

Economic Assessment and Certification

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. It is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with section 6 of E.O. 12612. The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. (OMB Clearance No. 1105–0050.)

List of Subjects in 28 CFR Part 75

Crime, Juvenile delinquency, Organization and functions (Government agencies).

By virtue of the authority vested in me by law, including 28 U.S.C. 509, 510 and 18 U.S.C. 2257(g), title 28, chapter I of the Code of Federal Regulations is amended by adding a new part 75 to read as follows:

PART 75—CHILD PROTECTION RESTORATION AND PENALTIES ENHANCEMENT ACT OF 1990; RECORD-KEEPING PROVISIONS

Sec.

75.1 Definitions.
75.2 Maintenance of records.
75.3 Categorization of records.
75.4 Location of records.
75.5 Inspection of records.
75.6 Statement describing location of books and records.
75.7 Exemption statement.
75.8 Location of the statement.

Authority: 18 U.S.C. 2257.

§ 75.1 Definitions.

(a) Terms used in this Part shall have the meanings set forth in 18 U.S.C. 2257.

(b) *Picture identification card* shall mean a document issued by a government entity or by a private entity, such as a school or a private employer, that bears the photograph and the name of the individual identified. A picture identification card may be a passport, driver's license, work identification card, school identification card, selective service card, or identification card issued by a state.

(c) *Producer* means any person, including any individual, corporation, or other organization, who is a *primary producer* or a *secondary producer*.

(1) A *primary producer* is any person who actually films, videotapes, or photographs a visual depiction of actual sexually explicit conduct.

(2) A *secondary producer* is any person who produces, assembles, manufactures, publishes, duplicates, reproduces, or reissues a book, magazine, periodical, film, videotape, or other matter intended for commercial distribution that contains a visual depiction of actual sexually explicit conduct.

(3) The same person may be both a primary and a secondary producer.

(4) *Producer* does not include persons whose activities relating to the visual depiction of actual sexually explicit conduct are limited to the following:

(i) Photo processing;

(ii) Distribution; or

(iii) Any activity, other than those activities identified in paragraphs (c) (1) and (2) of this section, that does not involve the hiring, contracting for, managing, or otherwise arranging for the participation of the depicted performers.

(d) *Sell, distribute, redistribute,* and *rerelease* refer to commercial distribution of a book, magazine, periodical, film, videotape, or other matter that contains a visual depiction of actual sexually explicit conduct, and does not refer to noncommercial distribution of the such matter, including transfers conducted by lending libraries.

(e) *Copy,* when used in reference to an identification document or a picture identification card, means a photocopy or a photograph.

§ 75.2 Maintenance of records.

(a) Any producer of any book, magazine, periodical, film, videotape, or other matter that contains one or more visual depictions of actual sexually explicit conduct made after November 1, 1990 shall, for each performer portrayed in such visual depiction, create and maintain records containing the following:

(1) The legal name and date of birth of each performer, obtained by the producer's examination of an identification document, as defined by 18 U.S.C. 1028(d). For any performer portrayed in such a depiction made after May 26, 1992, the records shall also include a legible copy of the identification document examined and, if that document does not contain a recent and recognizable picture of the performer, a legible copy of a picture identification card.

(2) Any name, other than each performer's legal name, ever used by the performer, including the performer's maiden name, alias, nickname, stage name, or professional name. For any performer portrayed in such a depiction made after May 26, 1992, such names shall be indexed by the title or identifying number of the book, magazine, film, videotape, or other matter.

(b) A producer who is a secondary producer as defined in § 75.1(c) may satisfy the requirements of this Part to create and maintain records by accepting from the primary producer, as defined in § 75.1(c), copies of the records described in paragraph (a) of this section. Such a secondary producer shall also keep records of the name and address of the primary producer from whom he received copies of the records.

(c) The information contained in the records required to be created and maintained by this part need be current only as of the time the primary producer actually films, videotapes, or photographs the visual depiction of actual sexually explicit conduct. If the producer subsequently produces an additional book, magazine, film, videotape or other matter that contains one or more visual depictions of actual sexually explicit conduct made by a performer for whom he maintains records as required by this part, the producer may add the additional title and/or identifying number and the names of the performer to the existing records maintained pursuant to § 75.2(a)(2).

§ 75.3 Categorization of records.

Records required to be maintained under this part shall be categorized and retrievable to: All name(s) of each performer, including any alias, maiden name, nickname, stage name or professional name of the performer; and according to the title, number, or other similar identifier of each book, magazine, periodical, film, videotape, or other matter. Only one copy of each picture of a performer's picture identification card and identification document must be kept as long as each copy is categorized and retrievable according to any name, real or assumed, used by such performer, and according to any title or other identifier of the matter.

§ 75.4 Location of records.

Any producer required by this part to maintain records shall make such records available at the producer's place of business. The business address shall refer to a street address and not to a post office box number. Such records shall be maintained as long as the producer remains in business. If the producer ceases to carry on the business, the records shall be maintained for five years thereafter. If the producer produces the book, magazine, periodical, film, videotape or other matter as part of his control of or through his employment with an organization, records shall be made available at the organization's place of business. If the organization is dissolved, the individual who was responsible for maintaining the records on behalf of the organization, as described in § 75.6(b), shall continue to maintain the records for a period of five years after dissolution.

§ 75.5 Inspection of records.

Any producer required by this part to maintain records shall make such records available to the Attorney General or his delegee for inspection at all reasonable times.

§ 75.6 Statement describing location of books and records.

Any producer of any book, magazine, periodical, film, videotape, or other matter that contains one or more visual depictions of actual sexual explicit conduct made after November 1, 1990, and produced, manufactured, published, duplicated, reproduced, or reissued on or after May 26, 1992 shall cause to be affixed to every copy of the matter a statement describing the location of the records required by this part. A producer may cause such statement to be affixed, for example, by instructing the manufacturer of the book, magazine, periodical, film, videotape, or other matter to affix the statement.

(a) Every statement shall contain:

(1) The title of the book, magazine, periodical, film, or videotape, or other matter (unless the title is prominently set out elsewhere in the book, magazine, periodical, film, or videotape, or other matter) or, if there is no title, an identifying number or similar identifier which differentiates this matter from other matters which the producer has produced;

(2) The date of production, manufacture, publication, duplication, reproduction, or reissuance of the matter; and,

(3) A street address at which the records required by this part may be made available. The street address may be an address specified by the primary producer or, if the secondary producer satisfies the requirements of § 75.2(b), the address of the secondary producer.

(b) If the producer is an organization, the statement shall also contain the name, title, and business address of the individual employed by such organization who is responsible for maintaining the records required by this part.

(c) The information contained in the statement must be accurate as of the date on which the book, magazine, periodical, film, videotape, or other matter is sold, distributed, redistributed, or rereleased.

§ 75.7 Exemption statement.

(a) Any producer of any book, magazine, periodical, film, videotape, or other matter may cause to be affixed to every copy of the matter a statement attesting that the matter is not covered by the record-keeping requirements of 18 U.S.C. 2257(a)–(c) and of this part if:

(1) The matter contains only visual depictions of actual sexually explicit conduct made before November 1, 1990, or is produced, manufactured, published, duplicated, reproduced, or reissued before May 26, 1992;

(2) The matter contains only visual depictions of simulated sexually explicit conduct; or,

(3) The matter contains only some combination of the visual depictions described in paragraphs (a)(1) and (a)(2) of this section.

(b) If the primary producer and the secondary producer are different entities, the primary producer may certify to the secondary producer that the visual depictions in the matter satisfy the standards under paragraphs (a)(1) through (a)(3) of this section. The secondary producer may then cause to be affixed to every copy of the matter a statement attesting that the matter is not covered by the record-keeping requirements of 18 U.S.C. 2257(a)–(c) and of this part.

§ 75.8 Location of the statement.

All books, magazines, and periodicals shall contain the statement required in § 75.6 or suggested in § 75.7 either on the first page that appears after the front cover or on the page on which copyright information appears. In any film or videotape which contains end credits for the production, direction, distribution, or other activity in connection with the film or videotape, the statement referred to in § 75.6 or § 75.7 shall be presented at the end of the end titles or final credits and shall be displayed for a sufficient duration to be capable of being read by the average viewer. Any other film or videotape shall contain the required statement within one minute from the start of the film or videotape, and before the opening scene, and shall display the statement for a sufficient duration to be read by the average viewer. For all other categories not otherwise mentioned in this section, the statement is to be prominently displayed consistent with the manner of display required for the aforementioned categories.

Dated: April 14, 1992.

William P. Barr,

Attorney General.

[FR Doc. 92–9526 Filed 4–23–92; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AE44

Veterans Benefits; Veterans Education and Employment Amendments of 1989 and the Montgomery GI Bill—Active Duty

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Veterans Education and Employment Amendments of 1989 contain several provisions which affect the Montgomery GI Bill—Active Duty. These include establishing flight training under this GI Bill; amendments to the work-study program; changes in the method for determining the end of a veteran's eligibility period; and the elimination of absence accounting. These amended regulations will acquaint the public with the way in which the Department of Veterans Affairs (VA) intends to implement these provisions of law.

EFFECTIVE DATE: These amended regulations are effective retroactively on the same date as the provisions of law they implement. Consequently, the amendments to § 21.7145 are retroactively effective on May 1, 1990. The amendments to §§ 21.7020(b)(25), 21.7076, 21.7120, 21.7135(e), 21.7220 and 21.7222 are retroactively effective on September 30, 1990. The amendments to all other amended regulations included here are retroactively effective on December 18, 1989.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810

Vermont Avenue, NW., Washington, DC 20420, (202) 233–2092.

SUPPLEMENTARY INFORMATION: On pages 51663 through 51666 of the **Federal Register** of October 15, 1991, there was published a Notice of Intent to amend 38 CFR part 21 in order to implement the provisions of Veterans Education and Employment Amendments of 1989 (Pub. L. 101–237) which affect the Montgomery GI Bill—Active Duty. Interested people were given 30 days to submit comments, suggestions or objections. VA received no comments, suggestions or objections. Accordingly, the department is making the proposed regulations final. However, the authority citations printed in the proposal of October 15, 1991, reflected the way in which the sections of title 38, U.S. Code were numbered before the enactment of Public Law 102–83. Since Pub. Law 102–83 renumbered those cited sections, the authority citations reflect the numbering system introduced by that law. Additionally, as a result of an internal review § 21.7042(a)(3) has been reworded to make it clearer.

The Department of Veterans Affairs has determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no 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.

The Secretary of Veterans Affairs has certified that these amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulations affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

VA finds that good cause exists for making the amendments to § 21.7145, like the provisions of law they implement, retroactively effective on May 1, 1990. VA finds that good cause exists for making the amendments to §§ 21.7020, 21.7076, 21.7120, 21.7135(e), 21.7220 and 21.7222, like the provisions of law they implement, retroactively effective on September 30, 1990. VA also finds that good cause exists for making the amendments to the remainder of the regulations, like the provisions of law they implement, retroactively effective on December 18, 1989. It is necessary to implement these provisions of law as soon as possible for two reasons. For those provisions which are intended to achieve a benefit for the individual, the maximum benefits intended in the legislation will be achieved through prompt implementation. For those provisions which are restrictive, prompt implementation will properly achieve the intent of the law. Hence, a delayed effective date would be contrary to statutory design; would complicate administration of these provisions of law; might result in the denial of a benefit to someone who is entitled to it; or might result in the awarding of a benefits to someone who is not entitled to it.

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.124.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 20, 1992.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart K—All Volunteer Force Educational Assistance Program (New GI Bill)

For the reasons set out in the preamble, 38 CFR part 21, subpart K is amended as set forth below.

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

Authority: 38 U.S.C. 501(a).

2. In § 21.7020 paragraphs (b)(25)(i)(E) and (F) are revised and paragraph (G) is added; paragraph (b)(26)(ii) and its authority citation are revised to read as follows:

§ 21.7020 Definitions.

* * * * *

(b) *Other definitions.*

* * * * *

(25) *Pursuit.*

(i) * * *

(E) A graduate program of research in absentia,

(F) Medical-dental internships and residencies, nursing courses and other medical-dental specialty courses, or

(G) A flight training course during the period beginning on September 30, 1990, and ending on September 30, 1994.

* * * * *

(26) *Refresher course.*

* * * * *

(ii) A course which permits an individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment during and since the period of the individual's active military service.

(Authority: 38 U.S.C. 3034(a))

3. In § 21.7042 paragraph (a)(3) and its authority citation are revised; paragraph (b)(2) is revised and an authority citation is added; paragraph (e)(2)(iii) is revised and its authority citation is added to read as follows.

§ 21.7042 Basic eligibility requirements.

* * * * *

(a) *Eligibility based solely on active duty.* * * *

(3) The individual before completing the service requirements of this paragraph must either—

(i) Complete the requirements of a secondary school diploma (or an equivalency certificate), or

(ii) Successfully complete the equivalent of 12 semester hours or the equivalent in a program of education leading to a standard college degree; and

(Authority: 38 U.S.C. 3011, 3012, 3016)

* * * * *

(b) *Eligibility based on active duty service and service in the Selected Reserves.* * * *

(2) The individual before completing the service requirements of this paragraph must either—

(i) Complete the requirements of a high school diploma (or an equivalency certificate),

(ii) Successfully complete the equivalent of 12 semester hours or the equivalent in a program of education leading to a standard college degree;

(Authority: 38 U.S.C. 3011, 3012, 3016)

* * * * *

(e) *Restrictions on establishing eligibility.* * * *

(2) * * *

(iii) Before beginning the training for which he or she wishes to receive educational assistance—

(A) Has completed the requirements of a high school diploma (or equivalency certificate), or

(B) Has successfully completed the equivalent of 12 semester hours or the equivalent in a program of education leading to a standard college degree.

(Authority: 38 U.S.C. 3011, 3012, 3016)

* * * * *

4. In § 21.7050 paragraphs (a) and (b) and their authority citations are revised to read as follows.

§ 21.7050 Ending dates of eligibility.

* * * * *

(a) *Ten-year time limitation.* (1) Except as provided in paragraph (b) of this section and in § 21.7051 of this part, VA will not provide basic educational assistance or supplemental educational assistance to a veteran or service member beyond 10 years from the later of—

(i) The date of the veteran's last discharge or release from a period of active duty of 90 days or more of continuous service;

(ii) The date of the veteran's last discharge or release from a shorter period of active duty if the discharge or release is—

(A) For a service-connected disability, or

(B) For a medical condition which preexisted such service and which VA determines is not service-connected, or

(C) For hardship, or

(D) Involuntary, for the convenience of the government after October 1, 1987, as a result of a reduction in force, as determined by the Secretary of the military department concerned, in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy; or

(iii) The date on which the veteran meets the requirement for four years service in the Selected Reserve found in § 21.7042(b) and § 21.7044(b).

(2) In determining whether a veteran was discharged or released from active duty for a medical condition which preexisted that active duty, VA will be bound by a decision made by a competent military authority.

(Authority: 38 U.S.C. 3031(a), 3031(g))

(b) *Reduction of ten-year eligibility period.* (1) Except as provided in paragraph (b)(2) of this section, a veteran who had eligibility for educational assistance under 38 U.S.C. ch. 34 and who is eligible for educational assistance under 38 U.S.C. ch. 30 as provided in § 21.7044 of this part shall have his or her ten-year period of eligibility reduced by the number of days he or she was not on active duty during the period beginning on January 1, 1977, and ending on October 18, 1984.

(2) A veteran's ten-year period of eligibility shall not be reduced by any period in 1977 before the veteran began serving on active duty when the veteran qualified for educational assistance under 38 U.S.C. ch. 34 through service on active duty which—

(i) Commenced within 12 months of January 1, 1977, and

(ii) Resulted from a contract with the Armed Forces in a program such as the DEP (Delayed Enlistment Program) or an ROTC (Reserve Officers' Training Corps) program for which a person enlisted in, or was assigned to, a reserve component before January 1, 1977.

(Authority: 3031(e))

* * * * *

5. In § 21.7076 paragraph (a) and its authority citation are revised; paragraph (b)(1) introductory text is revised; paragraph (b)(9) and its authority citation are added to read as follows:

§ 21.7076 Entitlement charges.

(a) *Overview.* VA will make charges against entitlement as stated in this section. Charges will be made against the entitlement the veteran or servicemember has to educational assistance under 38 U.S.C. ch. 30 as the assistance is paid. After December 31, 1989, there will be a charge (for record purposes only) against the remaining entitlement, under 38 U.S.C. ch. 34 of an individual who is receiving educational assistance under § 21.7137. The record-purpose charges against entitlement under 38 U.S.C. ch. 34 will not count against the 48 months of total entitlement under both 38 U.S.C. chs. 30 and 34 to which the veteran or servicemember may be entitled. (See § 21.4020(a).) Except for those pursuing correspondence training, flight training or apprenticeship or other on-job training, charges are based upon the principle that a veteran or servicemember who trains full time for one day should be charged one day of entitlement. The provisions of this section apply to—

(1) Veterans and servicemembers training under 38 U.S.C. ch. 30, and

(2) Veterans training under 38 U.S.C. ch. 31 who make a valid election under § 21.21 to receive educational assistance equivalent to that paid to veterans under 38 U.S.C. ch. 30.

(Authority: 38 U.S.C. 3013)

(b) *Determining entitlement charge.* (1) Except for those pursuing correspondence training, cooperative training, flight training, or apprenticeship or other on-job training, and those receiving tutorial assistance, VA will make a charge against entitlement—

* * * * *

(9) When a veteran or servicemember is pursuing a program of education through flight training, VA will make a charge against entitlement for each payment made to him or her. The charge—

(i) Will be made in months and decimal fractions of a month, and

(ii) Will be determined by dividing the amount of the payment by an amount equal to the rate of basic educational assistance otherwise applicable to him or her for full-time institutional training.

(Authority: 38 U.S.C. 3031(f))

* * * * *

6. In § 21.7120 paragraph (c) and its authority citation are revised to read as follows:

§ 21.7120 Courses included in programs of education.

* * * * *

(c) *Flight training.* (1) VA may pay educational assistance for an enrollment in a flight training course—

(i) When an institution of higher learning offers the course for credit toward the standard college degree the veteran or servicemember is pursuing; or

(ii) When—

(A) A flight school is offering the course,

(B) The State approving agency and the Federal Aviation Administration have approved the course,

(C) The course of flight training is generally accepted as necessary to attain a recognized vocational objective in the field of aviation which the veteran or servicemember is pursuing, and

(D) The training for which payment is made occurred after September 29, 1990, and before October 1, 1994.

(2) VA will not pay educational assistance for an enrollment in a flight training course which the veteran or servicemember is pursuing as ancillary training for a vocation other than aviation.

(Authority: 38 U.S.C. 3034(f))

7. In § 21.7135 paragraph (e)(5) and its authority citation are added; paragraphs (l) and (q) and their authority citations are revised to read as follows:

§ 21.7135 Discontinuance dates.

* * * * *

(e) *Course discontinued, course interrupted, course terminated, course*

not satisfactorily completed or withdrawn from.

* * * * *

(5) When a veteran or servicemember withdraws from a flight course, VA will terminate educational assistance effective the date of last instruction.

(Authority: 38 U.S.C. 3034(f))

* * * * *

(l) *Unsatisfactory progress, conduct or attendance.* If a veteran's or servicemember's progress, conduct or attendance is unsatisfactory, his or her educational assistance shall be discontinued effective the earlier of the following:

(1) The date the educational institution discontinues the veteran's or servicemember's enrollment, or

(2) The date on which the veteran's or servicemember's progress, conduct or attendance becomes unsatisfactory according to the educational institution's regularly established standards of progress, conduct or attendance.

(Authority: 38 U.S.C. 3034, 3474)

* * * * *

(q) *Active duty.* If a veteran reenters on active duty, the effective date of reduction of his or her award of educational assistance shall be the day before the veteran's entrance on active duty. (This reduction does not apply to brief periods of active duty for training if the educational institution permits absence for active duty for training without considering the veteran's pursuit of a program of education to be interrupted).

(Authority: 38 U.S.C. 3032)

* * * * *

8. In § 21.7139 the introductory text of paragraph (a) is revised and its authority citation is added to read as follows.

§ 21.7139 Conditions which result in reduced rates.

* * * * *

(a) *Absences.* A veteran or servicemember enrolled in a course not leading to a standard college degree (other than one to which § 21.4270(a), footnote 6 applies) will have his or her educational assistance reduced for any day of absence which occurred before December 18, 1989, and which exceeds the maximum allowable absences permitted in this paragraph.

(Authority: 38 U.S.C. 3034, 3580)

* * * * *

9. In § 21.7140 paragraph (c)(1)(iii) is revised and an authority citation is added to read as follows.

§ 21.7140 Certifications and release of payments.

* * * * *

(c) *Other payments.* * * *

(1) * * *

(iii) In the case of a veteran or servicemember pursuing a course not leading to a standard college degree, other than one to which § 21.4270(a), footnote 6 applies, a report from the veteran or servicemember of each day of absence from scheduled attendance which occurred before December 18, 1989. If the veteran is enrolled concurrently in more than one educational institution, the primary educational institution will endorse the report. For a discussion of each of these certifications see § 21.7152 and § 21.7154.

(Authority: 38 U.S.C. 1434 (1989), 38 U.S.C. 1780(a)(2) (1974))

10. In § 21.7142 paragraphs (a) (5) and (6) and the authority citation to paragraph (a) are revised; paragraph (a)(7) is added to read as follows.

§ 21.7142 Nonduplication of educational assistance.

(a) * * *

(5) 10 U.S.C. chapter 107,

(6) The Hostage Relief Act of 1980, (Pub. L. 96–499, 94 Stat. 1967–1974, and 5 U.S.C. 5561 note), and

(7) The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399, 100 Stat. 887–889 (10 U.S.C. 2181–2185)).

(Authority: 38 U.S.C. 3033, 3681)

* * * * *

11. In § 21.7145 the section heading and paragraphs (a), (d) and (f) and their authority citations are revised to read as follows.

§ 21.7145 Work-study allowance.

(a) *Eligibility.* Veterans pursuing programs of education or training at a rate of three-quarter-time or full-time are eligible to receive a work-study allowance.

(Authority: 38 U.S.C. 3034, 3485)

* * * * *

(d) *Rate of payment.* In return for the veteran's agreement to perform services for VA totaling not more than 25 hours times the number of weeks contained in an enrollment period, VA will pay an allowance in an amount equal to the higher of—

(1) The hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times the number of hours the veteran has agreed to work, or

(2) The hourly minimum wage under comparable law of the State in which the services are to be performed times the number of hours the veteran has agreed to work.

(Authority: 38 U.S.C. 3034, 3485)

* * * * *

(f) *Veteran reduces rate of training.* In the event the veteran reduces his or her training to less than three-quarter-time before completing an agreement, the veteran, with the approval of the Director of the VA field station, or designee, may be permitted to complete the portions of an agreement in the same or immediately following term, quarter or semester in which the veteran ceases to be a three-quarter-time student.

(Authority: 38 U.S.C. 3034, 3485)

* * * * *

12. In § 21.7153 paragraph (c) and its authority citation are revised and paragraph (d) and its authority citation are added to read as follows.

§ 21.7153 Progress and conduct.

* * * * *

(c) *Satisfactory attendance.* In order to receive educational assistance for pursuit of a program of education, an individual must maintain satisfactory attendance. VA will discontinue educational assistance if the individual does not maintain satisfactory attendance. Attendance is unsatisfactory if the individual does not attend according to the regularly prescribed standards of the educational institution in which he or she is enrolled.

(Authority: 38 U.S.C. 3034, 3474)

(d) *Reentrance after discontinuance.* (1) An individual may be reentered following discontinuance because of unsatisfactory attendance, conduct or progress when either of the following sets of conditions exists:

(i) The individual resumes enrollment at the same educational institution in the same program of education and the educational institution has both approved the individual's reenrollment and certified it to VA; or

(ii) VA determines that—

(A) The cause of the unsatisfactory attendance, conduct or progress has been removed, and

(B) The program which the individual now proposes to pursue is suitable to his or her aptitudes, interests and abilities.

(2) Reentrance may be for the same program, for a revised program, or for an entirely different program depending on

the cause of the discontinuance and the removal of that cause.

(Authority: 38 U.S.C. 3034, 3474)

13. In § 21.7154 paragraph (b)(1)(ii) is revised and paragraph (iii) and an authority citation are added to read as follows.

§ 21.7154 Pursuit and absences.

* * * * *

(b) *Additional requirements when the course does not lead to a standard college degree.*

(1) * * *

(ii) The course does not qualify for measurement on a credit-hour basis as provided in § 21.4270(a), footnote 6, and

(iii) The absences occurred before December 18, 1989.

(Authority: 38 U.S.C. 3034, 3680(a))

* * * * *

14. In § 21.7156 paragraph (a)(2) is revised and its authority citation is added to read as follows.

§ 21.7156 Other required reports from educational institutions.

* * * * *

(a) *Interruptions, terminations and changes in hours of credit or attendance.*

* * * * *

(2) If the educational institution has certified the veteran's or servicemember's enrollment for more than one term, quarter or semester and the veteran or servicemember interrupts his or her training at the end of a term, quarter or semester within the certified enrollment period, the educational institution shall report the change in status to VA in time for VA to receive the report within 30 days of the last officially scheduled registration date for the next term, quarter or semester.

15. In § 21.7172 paragraphs (a)(1) and (2) are revised and an authority citation is added after paragraph (a)(2) to read as follows.

§ 21.7172 Measurement of concurrent enrollments.

(a) *Conversion of units of measurement required.* * * *

(1) If VA measures the course at the primary institution on a credit-hour basis (including a course which does not lead to a standard college degree, which is being measured on a credit-hour basis as provided in footnote 6 to § 21.4270(a)), and VA measures the courses at the second school on a clock-hour basis (including equivalent clock hours), the clock hours will be converted to credit hours.

(2) If VA measures the courses pursued at the primary institution on a clock-hour basis (including equivalent clock hours), and VA measures the courses pursued at the second school on a credit-hour basis, including courses which qualify for credit-hour measurement on the basis of footnote 6 to § 21.4270(a), VA will convert the credit hours to clock hours to determine the veteran's training time.

(Authority: 38 U.S.C. 3034, 3688)

* * * * *

16. In § 21.7220 paragraph (c) and its authority citation are added to read as follows.

§ 21.7220 Course approval.

* * * * *

(c) *Flight training.* VA and the State approving agencies shall apply the provisions of § 21.4263 Flight training when administering flight training under 38 U.S.C. ch. 30.

(Authority: 38 U.S.C. 3034)

17. In § 21.7222 paragraph (b) is revised and its authority citation is added to read as follows.

§ 21.7222 Courses and enrollments which may not be approved.

* * * * *

(b) A flight training course unless the course meets the requirements of § 21.4263.

(Authority: 38 U.S.C. 3034(d))

* * * * *

18. In § 21.7280 paragraph (b)(3)(ii) and its authority citation are revised to read as follows.

§ 21.7280 Death benefit.

* * * * *

(b) *Necessary criteria for death benefit.* * * *

(3) * * *

(ii) At the time of the individual's death he or she is on active duty with the Armed Forces and but for the minimum service requirements of § 21.7042(a)(2) or § 21.7042(b)(3) or (4) or the educational requirements of § 21.7042(a)(3) or § 21.7042(b)(2) or both would be entitled to basic educational assistance through having met the eligibility requirements of § 21.7042.

(Authority: 38 U.S.C. 3017(a)

* * * * *

[FR Doc. 92-9477 Filed 4-23-92; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[No. CA-14-10-5327; FRL-4117-1]

Approval and Promulgation of Implementation Plans; State of California, Kern County Air Pollution Control District, San Diego County Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rulemaking.

SUMMARY: On May 30, 1991, the California Air Resources Board (CARB) submitted to the EPA revisions to the California State Implementation Plan (SIP) for the Kern County portion of the Southeast Desert Air Basin, San Diego County Air Pollution Control District (APCD) and San Joaquin Valley Unified APCD. This notice takes direct final action on rules that control organic compounds from dry cleaning facilities. EPA is approving these revisions under section 110(k)(3) as meeting the requirements of section 110 and Part D of the Clean Air Act, as amended (CAA).

DATES: This action will be effective on June 23, 1992 unless notice is received within 30 days of publication that adverse or critical comments will be submitted. If the effective date is delayed, a timely notice will be published in the Federal Register.

ADDRESSES: Comments should be sent to: Esther J. Hill, Chief, Northern California, Nevada, & Hawaii Rulemaking Section, A-5-4, Air and Toxics Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, FAX: (415) 744-1076.

Copies of the rule revisions and EPA's evaluation reports of 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 Rule Evaluation Section, Stationary Source Division, 1219 K Street, Sacramento, CA 95814

Kern County Air Pollution Control District, 2700 M Street, Suite 275, Bakersfield, CA 93301

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123

San Joaquin Valley Unified Air Pollution Control District, 1745 West Shaw, Suite 104, Fresno, CA 93711
Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Cynthia G. Allen, Southern California, Arizona Rulemaking Section, (A–5–3), Air and Toxics Division, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, Tel: (415) 744–1189 or FTS: 484–1189.

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 Act), that included San Diego County APCD and the following eight air pollution control districts now known as the San Joaquin Valley Unified APCD: Fresno County APCD, Kern County APCD,[1] Kings County APCD, Madera County APCD, Merced County APCD, San Joaquin County APCD, Stanislaus County APCD, and Tulare County APCD. 43 FR 8964, 40 CFR 81.305. Because these areas 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 to December 31, 1987.[2] 1977 CAA § 172(a)(2). On May 26, 1988, EPA notified the Governor of California that the above districts' portions of the California State Implementation Plan (SIP) 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. 1399, codified at 42 U.S.C. 7401–7671q. In amended § 182(a)(2)(A), 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.

On March 20, 1991, the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) was formed. The SJVUAPCD has authority over the San Joaquin Valley Air Basin which includes all of the above eight counties except for the Southeast Desert Air Basin portion of Kern County. Thus, Kern County Air Pollution Control District (KCAPCD) still exists, but only has authority over the Southeast Desert Air Basin portion of Kern County.

Section 182(a)(2)(A) applies to pre-amendment section 107 nonattainment areas that were again designated nonattainment upon enactment and classified as marginal or above under section 181(a)(1) by operation of law. Such areas must adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[3] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. APCDs found in the San Joaquin Valley Air Basin (now collectively known as the SJVUAPCD) and San Diego were subject to the RACT fix-up requirement and the May 15, 1991 deadline.[4] KCAPCD was subject to EPA's SIP-Call, but was not subject to the RACT fix-up requirement and the May 15, 1991 deadline.[5]

The State of California submitted many revised RACT rules for incorporation into its SIP on May 30, 1991, including the rules being acted on in this notice. This notice addresses EPA's final action on the following rules:

Kern County (Southeast Desert) APCD

Rule 410.6—Perchloroethylene Dry Cleaning Systems
Rule 410.6A—Petroleum Solvent Dry Cleaning Operations

San Diego County APCD

Rule 67.2—Dry Cleaning Equipment Using Petroleum-Based Solvent

San Joaquin Valley Unified APCD

Rule 467.1—Perchloroethylene Dry Cleaning System
Rule 467.2—Petroleum Solvent Dry Cleaning Operations

These submitted rules were found to be complete on July 10, 1991 pursuant to EPA's completeness criteria set forth in 40 CFR part 51, appendix V [6] and are being granted approval.

This notice addresses volatile organic compound (VOC) rules that control emissions from petroleum and perchloroethylene dry cleaning facilities. VOCs contribute to the production of ground level ozone. San Joaquin Valley Rule 467.1, Kern County Rules 410.6 and 410.6A and San Diego County Rule 67.2 were originally adopted as part of San Joaquin's, Kern's and San Diego's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and have been revised in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. San Joaquin Valley Rule 467.2 is a new rule which has been adopted to meet EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation for Kern's Rules 410.6 and 410.6A, San Diego's Rule 67.2, and San Joaquin's Rules 467.1 and 467.2.

EPA Evaluation

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA, EPA regulations, and EPA policy. 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 3. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of reasonably available control technology (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

[1] At that time, Kern County included portions of two air basins: the San Joaquin Valley Air Basin and the Southeast Desert Air Basin. The San Joaquin Valley Air Basin portion of Kern County was designated as nonattainment, and the Southeast Desert Air Basin portion of Kern County was designated as unclassified. See 40 CFR 81.305 (1991).

[2] This extension was not requested for Kern County. Thus, Kern County's attainment date remained December 31, 1982.

[3] 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).

[4] The San Joaquin Valley Air Basin and San Diego were redesignated nonattainment and classified serious by operation of law pursuant to section 107(d) and section 181(a) on November 15, 1990. See 56 FR 56694 (November 6, 1991).

[5] KCAPCD was not subject to the RACT fix-up requirement and the May 15, 1991 deadline because the Southeast Desert Air Basin portion of Kern County was not a pre-enactment nonattainment area, and thus, was not automatically designated nonattainment on November 15, 1991. (See section 107(d).) However, the KCAPCD is still subject to the requirements of EPA's SIP-Call because the SIP-Call included all of Kern County. The substantive requirements of the SIP-Call are the same as those of the statutory RACT fix-up requirement.

[6] EPA has since adopted completeness criteria pursuant to section 110(k)(1)(A) of the amended Act. See 56 FR 42216 (August 26, 1991). These will replace the completeness criteria currently set forth in 40 CFR part 51, appendix V.

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 Kern County Rule 410.6 and San Joaquin Rule Valley Rule 467.1, Perchloroethylene Dry Cleaning Systems, is entitled, "Control of Volatile Organic Emissions from Perchloroethylene Dry Cleaning Systems", EPA document No. EPA–450/2–78–050. The CTG applicable to Kern County Rule 410.6A and San Joaquin Rule 467.2, Petroleum Solvent Dry Cleaning Operations and San Diego Rule 67.2, Dry Cleaning Equipment Using Petroleum-Based Solvent, is entitled, "Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners", EPA document No. EPA 450/3–82–009. 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.

EPA has evaluated Kern's submitted Rules 410.6 and 410.6A, San Diego's submitted Rule 67.2 and San Joaquin's submitted Rule 467.1 for consistency with the CAA, EPA regulations, and EPA policy and has found that the revisions address and correct the deficiencies previously identified by EPA. These corrected deficiencies have resulted in clearer, more enforceable rules. San Joaquin's submitted Rule 467.2 is a new rule which was adopted to control emissions of volatile organic compounds to the ambient air from petroleum solvent dry cleaning facilities. All of the rules will achieve greater enforceability through the inclusion of test methods and recordkeeping requirements. A brief description of each rule change is provided below.

Kern County

Rule 410.6, Perchloroethylene Dry Cleaning System

Kern County Rule 410.6 regulates VOC emissions from perchloroethylene dry cleaning systems. The revised rule adds new sections for definitions, recordkeeping requirements, and test methods. The exemption for facilities which consume less than 320 gallons per year of perchloroethylene has been deleted. The rule requires all dry cleaning equipment installed after July 1, 1991, to consist of dry-to-dry systems. The revised rule adds requirements for the handling of waste containing perchloroethylene and requirements to ensure compliance with state hazardous waste disposal laws. The revised rule requires all existing petroleum dry cleaning facilities to be in full compliance by November 1, 1992 and any new petroleum dry cleaning facility to be in full compliance with this rule upon initial operation.

Rule 410.6A, Petroleum Solvent Dry Cleaning Operations

Kern County Rule 410.6A regulates VOC emissions from petroleum dry cleaning operations. The revised rule adds new sections for definitions, recordkeeping requirements, and test methods. The revised rule requires the use of a solvent recovery dryer or add-on control device with a 90 percent control efficiency. The revised rule adds requirements for the handling of waste containing perchloroethylene and requirements to ensure compliance with state hazardous waste disposal laws. The revised rule requires all existing petroleum dry cleaning facilities to be in full compliance by November 1, 1992 and any new petroleum dry cleaning facility to be in full compliance with this rule upon initial operation.

San Diego County APCD

Rule 67.2, Dry Cleaning Equipment Using Petroleum-Based Solvent

San Diego Rule 67.2 regulates volatile organic compound emissions from dry cleaning operations using petroleum-based solvents. The revised rule adds new definitions to clarify the meaning of certain terms used in the rule and revises the definition of "fugitive liquid leak" to include a visible mist of petroleum-based organic solvent. The rule adds a requirement that cartridge type filters be drained in the filter housing for at least 24 hours before disposal of the filter, or drained for at least 12 hours and dried in a closed dryer. Articles must be transferred to the dryer within five minutes of removal from the washer, or must be kept covered. Driers must remain closed and the solvent recovery operation must continue until there is no visible flow of solvent in the condenser sight glass for at least one minute.

San Joaquin Valley Unified APCD

Rule 467.1, Perchloroethylene Dry Cleaning System

San Joaquin Rule 467.1 controls emissions of volatile organic compounds to the ambient air from perchloroethylene dry cleaning facilities. The revised rule provides definitions to clarify the meaning of certain terms used in the rule. Definitions are provided for the following terms: Dry-to-dry systems; leak; liquid and vapor leak; perchloroethylene dry cleaning facility; and portable hydrocarbon detection instrument. The rule requires an emission reduction of organic compounds to the atmosphere by at least 90 percent by weight. The rule adds sufficient recordkeeping requirements so that the daily consumption of perchloroethylene can be determined and inspectors are able to determine compliance with the rule's requirements. The rule specifies EPA test methods 18, 21, 24, 24A, 25, or 25A, as applicable, to determine compliance and to detect vapor or liquid leaks.

Rule 467.2, Petroleum Solvent Dry Cleaning Operations

San Joaquin Rule 467.2 controls emissions of volatile organic compounds to the ambient air from petroleum solvent dry cleaning operations. The new rule provides definitions to clarify the meaning of certain terms used in the rule. Definitions are provided for the following terms: Cartridge filter; dryer; leak; liquid and vapor leak; petroleum solvent dry cleaner; petroleum solvent; portable hydrocarbon detection instrument; solvent recovery dryer; and washer. The rule prohibits the operation of the equipment if it is leaking. The rule requires the use of a solvent recovery dryer or an add-on control device with 90 percent control efficiency. The rule adds sufficient recordkeeping requirements to show the amount of solvent purchased and used. The rule specifies EPA test methods 18, 25, or 25A to determine compliance and to detect vapor or liquid leaks.

EPA Action

EPA has concluded that the submitted rules listed above are consistent with the CAA, EPA regulations, and EPA policy and that the revisions address and correct all of the deficiencies previously identified by EPA. Moreover, these submitted rules revisions will improve and strengthen the current SIP. Therefore, EPA is approving the submitting rules under section 110(k)(3) as meeting the requirements of section 110 and part D of the CAA.

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.

EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment action and anticipates no

adverse comments. This action will be 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 notice will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective June 23, 1992.

Regulatory Process

Under 5 U.S.C. 605(b), I certify that these SIP revisions 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 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 Table 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 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, Reporting and recordkeeping requirements.

Dated: March 4, 1992.

John Wise,

Acting Regional Administrator.

Subpart F of part 52, chapter I, 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:

Subpart F—California

Authority: 42 U.S.C. 7401–7642.

2. Section 52.220 is amended by adding paragraph (c)(185) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(185) New and amended regulations for the following APCD's were submitted on May 30, 1991, by the Governor's designee.

(i) Incorporation by reference.

(A) Kern County Air Pollution Control District.

(*1*) Rules 410.6 and 410.6A, adopted on May 6, 1991.

(B) San Diego County Air Pollution Control District.

(*1*) Rule 67.2, adopted on May 21, 1991.

(C) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rules 467.1 and 467.2, adopted on April 11, 1991.

[FR Doc. 92–9620 Filed 4–23–92; 8:45 am]

BILLING CODE 6560–50–M

---

40 CFR Part 271

[FRL–4126–5]

Wisconsin: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule on application of Wisconsin for program revision.

SUMMARY: Wisconsin 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 Wisconsin's application and has reached a decision that Wisconsin's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to Wisconsin to operate its expanded program, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984.

EFFECTIVE DATE: Final authorization for Wisconsin shall be effective on April 24, 1992.

FOR FURTHER INFORMATION CONTACT: U.S. EPA Region V, John Maher, HRM–7J, 77 West Jackson Blvd., Chicgo, Illinois 60604, (312) 886–6085.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA"), 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. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

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 and 124 and 270.

B. Wisconsin

Wisconsin initially received final authorization effective on January 31, 1986 (51 FR 3783). Wisconsin received authorization for revisions to its program. These revisions became effective on June 6, 1989 (54 FR 22278); and January 22, 1990 (54 FR 48243). On December 13, 1991, Wisconsin submitted a program revision application for additional program approvals. On March 19, 1992, EPA published a proposal to approve Wisconsin's program revision in accordance with 40 CFR 271.21(b)(4).

EPA has reviewed Wisconsin's application, and has made a final decision that Wisconsin's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA is granting final authorization for the additional program modifications to Wisconsin. EPA has received no public comments.

Wisconsin is not receiving authorization for Direct Action Against Insurers, 3004(t), HSWA, enacted November 8, 1984. EPA has determined that this requirement is not delegable to any State. Therefore, EPA cannot, and is not, authorizing the State for Direct Action Against Insurers. Please note that this is a change from the **Federal Register** notice published on March 19, 1992 (57 FR 9526).

Wisconsin will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the following provisions of the Federal program:

Federal requirement	Analogous state authority
Clarification of Closure, Post-Closure Financial Responsibility, 53 FR 7740, March 10, 1988.	NR 600.03; 685.02; 685.05(1), (a), (b), (e), (2), (a)–(f), (k), (3)(a), (4)(a), (5), (6), (7), (8), (10)(b); 685.06(1), (2), (d), (3), (4), (5), (6)(a), (8), (9), (10), (11); 685.07, (1)(b), (2), (3)(a), (b) 1., 4., (d), (4), (5), (a)2, (e)5., (7)(a)1., (e), (9); 685.08(4)(b).
Radioactive Mixed Waste, 51 FR 24505, July 3, 1986, 53 FR 37045	Wis. Stat. s.144.01(15).
Sharing of Information with ATSDR, 3019(b), November 8, 1984	Wis. Stat. s.144.70.
Revised Manual SW-846; Amended Incorporation by Reference, 52 FR 8072, March 16, 1987.	NR 600.10(2), (b)1.
Closure/Post-closure for Interim Status Surface Impoundments, 52 FR 8704, March 19, 1987.	NR 660.15(1)(a)1.d., (d); 660.16(1)(d), (4); 660.17(2), (d), (e); 680.22(25), (26), (27).
Definition of Solid Waste; Technical Corrections, 52 FR 21307, June 5, 1987	NR 605.09(3).
Amendments to Part B Information Requirements for Disposal Facilities, 52 FR 23447, June 22, 1987.	NR 660.09(1)(k), (l).
Standards for Hazardous Waste Storage and Treatment Tank Systems, 51 FR 25422, July 14, 1986, and 51 FR 29430, August 15, 1986 [2].	NR 600.03; 610.08, (1)(n); 615.05(4)(a)2., 3.; 630.15(2)(d); 630.31(1)(b); 645.04(3); 645.06(1)(i)1.–9., and 11.; 645.07 (1), (2), (3), (4); 645.08(1)–(7); 645.09(1)–(7), (8)(a)–(d), (9)(c), (d), (10), (11); 645.10(1)–(4); 645.12(1), (3), (6); 645.13(1), (2); 645.14(1), (2); 645.17(1)(A)1., 2., 3.; 680.06(3)(e); 680.21; 680.22(6), (15), (22); 685.05; 685.06(1), (b), (c).
Spent Pickle Liquor from Steel Finishing Operations, 52 FR 28697, August 3, 1987.	NR 605.09(2)(b).
List of Hazardous Constituents for Ground-Water Monitoring, 52 FR 25942, July 9, 1987.	NR 635.13(10); 635.14(6); 660.08(2)(c)5.b.; 660.09(1)(a).
Identification and Listing of Hazardous Waste, 52 FR 26012, July 10, 1987	NR 605.09(3)(a)3.
Hazardous Waste Miscellaneous Units, 52 FR 46946, December 20, 1987	NR 600.03; 630.15(2)(d); 630.18(1); 630.31(1)(h); 635.05(1)(d); 635.06(2)(a), (b), (5)(a), (b)1.; 680.06(3); 685.05(1)(e), (2), (8);
Technical Corrections; Identification and Listing of Hazardous Waste, 53 FR 13382, April 22, 1988.	NR 605.09(3)(b), (c).
Identification and Listing of Hazardous Wastes; Treatability Studies Sample Exemption, 53 FR 27290, July 19, 1988.	NR 600.03; 605.05(4)(a), 1.–3., (b), 1.–3.,.a.,.b.1–5., 5.,a.–c.,6., (c)3.a.–e., (5), (a)–(d)2., (e)–(k).
Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems, 53 FR 34079, September 2, 1988 [2].	NR a600.03; 610.08(1)(m); 645.04(3); 645.09(1), (2), (8)(c), 680.22(22); 685.05(8); 685.06(1)(b).
Dioxin Waste listing and Management Standards, 50 FR 1978, January 14, 1985 [1].	NR 600.04(2); 605.06(3), (5); 605.09(1)(d), (2)(a), (3)(c); 610.09(1), (2); 640.13(1); 645.06(1)(i)7.; 655.12(1), (2); 660.13(5); 660.20(1), (2); 665.09(13)(a), (b); 680.22; Appendixes II, III, V to 605.
Household Waste, 50 FR 28702, July 15, 1985 [1]	NR 605.05(1)(a)1., a., 2.;
Double Liners, 50 FR 28702, July 15, 1985 [1]	NR 655.07; 660.13(2)(b), (10)(a), (b), (d), (g); 680.22(25).
Fuel Labeling, 50 FR 28702, July 15, 1985 [1]	NR 625.07(6)(d).
Corrective Action, 50 FR 28702, July 15, 1985 [1]	NR 600.04(1); 635.17(1), (2).
Pre-construction Ban, 50 FR 28702, July 15, 1985 [1]	Wis. Stat., ss. 144.64(2)(am)1; 144.44(2)(a); NR 157.07(2).
Permit Life, 50 FR 28702, July 15, 1985 [1]	NR 680.45(8).
Omnibus Provision, 50 FR 28702, July 15, 1985 [1]	Wis. Stat. s. 144.44(3)(g).
Interim Status, 50 FR 28702, July 15, 1985 [1]	Wis. Stat. s. 144.64(2)(am)2; NR 680.20, (3); 680.24, (4); 680.31(1); 680.42(11)(d).
Research and Development Permits, 50 FR 28702, July 15, 1985 [1]	Wis. Stat. s. 144.64(2)(am)2.; NR 680.20; 680.31(1); 680.51.
Hazardous Waste Exports, 50 FR 28702, July 15, 1985 [1]	NR 615.12(1).
Exposure Information, 50 FR 28702, July 15, 1985 [1]	NR 680.06(5)(b); 680.31(1).
Biennial Report Correction, 51 FR 28556, August 8, 1986 [1]	NR 630.40(1)(g)–(i); 680.22(15).
Exports of Hazardous Waste, 51 FR 28664, August 8, 1986 [1]	NR 600.03; 605.05; 610.04(2), (3); 610.07(1)(b), (c); 615.11; 615.12, (1)(j)–(n); 615.13(1), (2); 620.07(2)(a), (b), (4)(a), (b), (8)(b), (9), (10)(c), (d).
Listing of EBDC, 51 FR 37725, October 24, 1986 [1]	NR 605.09(2)(a); Appendix II to 605.
Land Disposal Restrictions, 51 FR 40572, November 7, 1986, and 52 FR 21010, June 4, 1987 [1].	Wis. Stat. ss. 144.44(3)(g), 227.12(1); NR 600.01; 600.02; 600.03; 600.06(1)–(4); 605.02; 605.04; 605.05, (1)(b)(2), (3)(a); 605.06, (1), (2); 605.08(1)(b), 605.09(1)(c); 610.05(4); 610.07(1), (2); 610.09, (2); 615.06(6), 620.14; 625.04(4); 630.02; 630.04(2); 630.12(1); 630.13(1)(f), (h); 630.31(1)(d), (k)–(o); 675.01; 675.02; 675.03; 675.04(1), (a), (b), (2); 675.05, (1), (2); 675.06; 675.07(1), (a)1.a.–d., (b), 1, 2, (c), 1., (d), (2), (a), (b), (h)(2); 675.10(1), (2); 675.11(1); 675.20(1); 675.21(1), (2); 675.22(1), (2); 675.23(1), (2); 675.24; 675.30(1), (a), (b), 1.–2., (c), (2), (3), (4), (5), (2); 680.22(5), (6), (15); Appendixes I and II to 675.
California List Waste Restrictions, 52 FR 25760, July 8, 1987, and 52 FR 41295, October 27, 1987 [1].	NR 600.03; 600.10(2); 610.04(2), (3); 630.13(1)(h)3.; 675.03; 675.04(1)(a), (2); 675.06; 675.07(1), (a), 1., b., (b), 1.b., (2), (b), (h); 675.12(1), (a)–(e), (2), (a)–(c), (3), (4), (5), (a), (b); 675.20(1), (2); 675.22(1)(a), (b), 675.30(1), (5), (6), 680.22(6); Appendix I to 675.
Exception Reporting for Small Quantity Generators of Hazardous Waste, 52 FR 35894, September 23, 1987 [1].	NR 610.05(6); 610.08(1)(d), (f), (g); 615.11(2)(a).
Permit Application Requirements Regrading Corrective Action, 52 FR 45788, December 1, 1987 [1].	NR 660.09(1)(a).
Corrective Action Beyond the Facility Boundary, 52 FR 45788, December 1, 1987 [1].	NR 635.15(5), (a), (b); 635.17(3).
Permit as a Shield Provision, 52 FR 45788, December 1, 1987 [1]	NR 680.40(2).
Farmer Exemptions; Technical Corrections, 53 FR 27165, July 19, 1988 [1]	NR 610.04(2), (3); 615.04(2); 615.05(3)(b).
Land Disposal Restrictions for the First Third Schedule Wastes, 53 FR 31138, August 17, 1988, and 54 FR 8264, February 27, 1989 [1].	NR 630.13(1)(h)3.; 630.31(1)(k)–(o); 675.04(1)(a), 1.–4.; 675.07(1), (a), 1., (b), (c)1., a.–e., (d)1.a.–d., (e), (f), (2), (a), (b), (c), (d)1., (e), (f), (g), 1.–4., (h), 1., 2.; 675.10(1)–(3); 675.11(1), (2); 675.12(1), (e), (2), (3); 675.13(1)–(4), (a)–(c), (5); 675.20(1), (3); 675.21(1); 675.22(1)(b); 675.23(1), (2); 675.30(4); 680.22(6), (15).
Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems, 53 FR 34079, September 2, 1988 [2].	NR 600.03; 610.08(1)(n); 645.04(3); 645.09(1), (2), (8); 680.22(22); 685.05(8); 685.06(1)(b).
Identification and Listing of Hazardous Waste; Technical Corrections, 53 FR 27162, July 19, 1988 [1].	NR 610.09, (2).
Land Disposal Restriction Amendments to First Third Scheduled Wastes, 54 FR 18836, May 2, 1989 [1].	NR 675.23(1).

Federal requirement	Analogous state authority
Land Disposal Restrictions for Second Third Schedule Wastes, 54 FR 26594, June 23, 1989 [1].	NR 675.14(1)–(8), (a), (b), (9), (10); 675.21(1); 675.22(1)(c), (d); 675.23(1), (2).
Land Disposal Restrictions; Correction to the First Third Schedule Wastes, 54 FR 36967, September 6, 1989 [1].	NR 675.05; 675.07(1)(c), 1., (d), 675.13(1), (5); 675.30(4).

[1] HSWA requirements.
[2] Both non-HSWA and HSWA requirements.
All NR regulations became effective on March 1, 1991.

EPA shall administer any RCRA hazardous waste permits or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization, and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization. EPA has previously suspended issuance of permits for the other provisions on January 31, 1986, June 6, 1989, and January 22, 1990, the effective dates of Wisconsin's final authorization for the RCRA base program, and subsequent program revisions.

Wisconsin is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that Wisconsin's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Wisconsin is granted final authorization to operate its hazardous waste program as revised. Wisconsin now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Wisconsin 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.

D. Codification in Part 272

EPA codifies authorized State programs in part 272 of 40 CFR. The purpose of codification is to provide notice to the public of the scope of the authorized program in each State. Codification of the Wisconsin program will be completed at a later date.

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 Wisconsin'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.

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: April 20, 1992.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 92–9589 Filed 4–23–92; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 911177–2016]

RIN 0648–AE45

Groundfish of the Gulf of Alaska, Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final Rule; Correction.

SUMMARY: This document contains corrections to the final regulations that implemented Amendment 20 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bearing Sea and Aleutian Islands Area (BSAI) and Amendment 25 to the FMP for Groundfish of the Gulf of Alaska. Regulations implementing Amendments 20 and 25 were published January 23, 1992 (57 FR 2683). The corrections address erroneous regulatory citations in the published regulations.

EFFECTIVE DATE: April 24, 1992.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fisheries Management Division, Alaska Region, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR 672.24(e) and 675.24(f) were implemented under Amendments 25 and 20 to the FMPs (January 23, 1992, 57 FR 2683), and establish Steller sea lion protection areas around designated rookery sites. As published, the final regulations at 50 CFR 672.24(e)(2) and 675.24(f)(1)(ii) and (f)(2)(ii) contain an erroneous reference to 50 CFR 675.20(e). This reference must be corrected to reference 50 CFR 657.20(a)(8).

Accordingly, 50 CFR parts 672 and 675 are corrected by making the following correcting amendments:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 672.24 [Corrected]

2. In § 672.24, paragraph (e)(2), the reference to "50 CFR 675.20(e)" is revised to read "50 CFR 675.20(a)(8)".

PART 675—GROUNDFISH OF THE BEARING SEA AND ALEUTIAN ISLANDS AREA

3. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 675.24 [Corrected]

4. In § 675.24, paragraphs (f)(1)(ii) and (f)(2)(ii), the reference to "50 CFR 675.20(e)" is revised to read "50 CFR 675.20(a)(8)".

Dated: April 20, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-9335 Filed 4-23-92; 8:45 am]

BILLING CODE 3510-22-M

---

50 CFR Part 675

[Docket No. 910483-1155]

RIN 0648-AD49

Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Correction

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to the final regulations that implemented Amendment 16a to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI). Regulations implementing Amendment 16a were published July 18, 1991 (56 FR 32984). The correction addresses an erroneous regulatory citation in the published regulations.

EFFECTIVE DATE: April 24, 1992.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fisheries Management Division Alaska Region, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR 675.24(c)(2) were implemented under Amendment 16a to the BSAI FMP (July 18, 1991, 56 FR 32984) and authorize the Secretary of Commerce, in consultation with the North Pacific Fishery Management Council, to limit the amount of pollock that may be harvested in the directed fishery for pollock by vessels using non-pelagic trawl gear. As published, the final regulations at 50 CFR 675.24(c)(2)(ii) contain an erroneous reference to 50 CFR 672.20(a)(7). This reference must be corrected to reference 50 CFR 675.20(a)(7).

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Accordingly, 50 CFR part 675 is corrected by making the following correcting amendments:

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

1. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 675.24 [Corrected]

2. In § 675.24, paragraph (c)(2)(ii), the reference to "§ 672.20(a)(7)" is revised to read "§ 675.20(a)(7)."

Dated: April 20, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation, and Management, National Marine Fisheries Service.

[FR Doc. 92-9536 Filed 4-23-92; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 80
Friday, April 24, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 302

[Docket No. 88-202]

District of Columbia; Movement of Plants and Plant Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule and withdrawal of prior proposed rule.

SUMMARY: We are withdrawing a proposal that would have revised the regulations concerning movement of plants and plant products into and out of the District of Columbia. Instead, we are proposing to remove these regulations. This action appears warranted because these regulations specifically pertaining to the District of Columbia are duplicative of, or exceed the requirements of, other Federal regulations that restrict the movement of plants and plant products into and from other jurisdictions in the United States, including the District of Columbia. We believe that the restrictions imposed by the other existing Federal regulations are adequate to prevent the introduction and interstate spread of plant pests that present a significant threat to U.S. agriculture. This action would remove inspection and certification requirements that appear unnecessary. The Animal and Plant Health Inspection Service would continue to provide inspection and documentation services for plants and plant products moving from the District of Columbia when inspection or documentation is required by Federal laws or regulations or, when applicable, by the laws or regulations of countries that receive plants or plant products from the District of Columbia.

DATES: Consideration will be given only to comments received on or before June 23, 1992.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 88-202. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Sidney Cousins, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 644, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6365.

SUPPLEMENTARY INFORMATION: On September 28, 1988, we published in the **Federal Register** (53 FR 37772-37774, Docket Number 85-368), a document proposing to revise the regulations in 7 CFR part 302, "District of Columbia; Movement of Plants and Plant Products." The intent of the proposed revisions was to remove unnecessary restrictions on the interstate movement of plants and plant products and to clarify the regulations, which have been in effect since 1959, for persons who must comply with them. The proposed regulations, if adopted, would have deleted requirements for mandatory inspection of all plants and plant products moving into the District of Columbia (District) and would have removed the requirement that all plants and plant products moving out of the District have a certificate. For a full discussion of the proposed revisions, refer to that document.

Our proposal invited the submission of written comments, due on or before November 28, 1988. We received two comments prior to this closing date, both from departments of agriculture bordering the District and both objecting to the proposal as written. In response to these comments, and as a result of further agency review, we are withdrawing the September 28 proposal Docket Number 85-368 and propose to remove 7 CFR part 302 in its entirety.

Both commenters opposed the proposal, stating two basic concerns. First, if inspection of plants, plant material, or nursery stock moving into the District were no longer required, then the District could become a "dumping ground" for low quality or pest-infested/infected plant materials. A second perceived problem was that if there were no requirement for certification of nursery stock, perennials, etc., moving out of the District, these pest-infested plants could be distributed into the border States of Maryland and Virginia.

We believe these comments indicate a misunderstanding of the intent of the proposed rule. Apparently, our proposed revision of part 302 left the impression that no inspection or certification services would be provided for plants or plant products moving into or from the District. This was not our intention.

While the proposed rule would have removed the requirement in Part 302 for inspection of all plants and plant products being transported into the District, Animal and Plant Health Inspection (APHIS) inspectors would have continued to inspect plants moved into the District when required by other Federal regulations concerning interstate movement of plants.

Also, while the proposed rule would have removed the requirement that all plants and plant products moved from the District be accompanied by a certificate, APHIS would have continued to provide inspection and documentation services to meet other Federal requirements, as well as the laws and regulations of foreign countries when applicable.

We continue to believe that other existing Federal regulations are adequate to prevent the introduction and interstate spread of plant pests that present a significant threat to U.S. agriculture. Maintaining special regulations pertaining specifically to plants and plant products moved into or from the District of Columbia does not appear necessary. These regulations are duplicative of, or exceed the requirements of, other Federal regulations that restrict the movement of plants and plant products into and from other jurisdictions in the United States, including the District of Columbia. If we removed the requirements mandating inspection and certification of plants and plant products entering or leaving the District of Columbia, there would no longer be a need for 7 CFR part 302. Therefore, we propose to remove 7 CFR part 302.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule". Based on information compiled by the Department, we have determined that this proposed rule, if adopted, would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause 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.

Removing the "District of Columbia; Movement of Plants and Plant Products" regulations would relieve inspectors of the requirement to perform inspections and issue documents that are not necessary for the protection of agriculture from plant pests or diseases.

However, removing these regulations would not increase or decrease trade movements or sales since inspection and documentation to meet other Federal regulations, as well as applicable foreign country laws and regulations, would continue to be provided. APHIS would continue to provide inspectors as needed to meet these other regulations, since the District of Columbia does not employ such inspectors. There are less than ten small entities that move plants into and out of the District of Columbia. Because the volume of plants moving into and out of the District is so small, there would be no significant economic impact created by the removal of the unnecessary requirements.

Under these circumstances, the Administrator of the Animal and plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This proposed rule and withdrawal of prior proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule proposes to remove existing regulations concerning movement of plants and plant products into and out of the District of Columbia which are duplicative of, or exceed the requirements of, other federal regulations that restrict the movement of plants and plant products into and from other jurisdictions in the United States, including the District of Columbia. If this proposed rule is adopted, there will be no retroactive effect. This proposed rule will not preempt any State or local laws or regulations, and will not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

List of Subjects in 7 CFR Part 302

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 302—DISTRICT OF COLUMBIA; MOVEMENT OF PLANTS AND PLANT PRODUCTS

Accordingly, 7 CFR part 302 would be removed.

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

Authority: 7 U.S.C. 105dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51 and 371.2(c).

Done in Washington, DC, this 20th day of April 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–9601 Filed 4–23–92; 8:45 am]

BILLING CODE 3410–34–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AE04

Receipt of Byproduct and Special Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations governing the conditions of licenses for production and utilization facilities to allow a reactor licensee to receive back byproduct and special nuclear material that is produced by operating the reactor after that waste has been sent offsite to be reduced in volume by compaction or incineration.

DATES: The comment period expires July 8, 1992. Comments received after this 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: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing ad Service Branch.

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

Commetns may be examined at: the NRC Public Document Room at 2120 L Street, NW., (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: LeMoine J. Cunningham, telephone (301) 504–1086, or Paul H. Lohaus on (301) 504–2553. U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION:

Background

The Commission is proposing to amend its regulations in 10 CFR 50.54, "Conditions of licenses," that contain conditions that are deemed to be applicable for each license issued under 10 CFR part 50.

This amendment is needed primarily because of changing circumstances surrounding the treatment, storage, and disposal of low-level radioactive waste (LLRW) generated by operating nuclear power reactors. At the time when most operating licenses were issued, the Commission expected that LLRW would be promptly treated and sent offsite for disposal in a licensed LLRW disposal facility. Therefore, operating licenses did not authorize the licensees for power reactor operators to receive byproduct or special nuclear material except in the form of sealed sources for special purposes, for analysis or calibration, or in form of fuel for use in the reactor.

Accordingly while a reactor licensee may send its LLRW offsite to another licensee for treatment (e.g., compaction or incineration), the licensee treating the waste may not return it to the generating licensee because the latter lacks authority to receive it.

Licensees providing offsite treatment and volume reduction services may have several reasons for needing to return treated LLRW to the generator. Access to LLRW disposal facilities may be restricted for the generator whose

waste has been treated. The licensee offering offsite services may not have adequate capacity for storing the waste until disposal. The legal relationships among States and Regions established under the various Compacts ratified by the Congress in conjunction with the Low Level Radioactive Waste Policy Amendments Act of 1985, Public Law 99–240, may force return of treated LLRW to the generator in order to ensure that the waste is disposed of at the appropriate disposal facility.

This minor amendment does not represent any change in Commission regulatory policy regarding radioactive waste. On October 16, 1981, the Commission published its policy statement on low-level waste volume reduction (46 FR 51100) in which it called upon all generators of radioactive waste to reduce the volume of LLRW for disposal to extend the life of disposal sites and alleviate storage concerns. This amendment will further enhance licensees' options to reduce the volume of waste by using services performed offsite and permitting the return of the treated waste to the generator. However, the Commmission does not look favorably on long-term on-site storage. The amendment is intended to ensure that licensees will have adequate short-term on-site storage capacity for self-generated LLW until permanent disposal capacity is available. Furthermore, the amendment does not authorize the receipt of any material recovered from the reprocessing of irradiated fuel.

Environmental Impact: Categorical Exclusion

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

Paperwork Reduction Act Statement

This proposed regulation contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Regulatory Analysis

The Commission has considered alternatives to, as well as the costs and benefits of, the proposed regulation. There is no alternative to amending the regulations that would satisfy questions concerning the legality of transfer on a generic basis. The proposed rule would not impose any additional cost or burden on a licensee or other individual. The proposed requirements are intended to facilitate actions necessary to ensure that licensees will have adequate short-term onsite storage capacity for low-level radioactive waste until permanent disposal is available. The Commission does not look favorably on long-term onsite storage. The forgoing constitutes the regulatory analysis for the proposed rule.

Regulatory Flexibility Act

The Commission certifies that this rule, if adopted, will not have a significant economic impact on a significant number of small entities. The proposed amendment is entirely permissive in nature and will predominately affect large entities, nuclear power reactor licensees, and persons who provide volume reduction services to these licensees.

Backfit Analysis

The Commission 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 for this proposed amendment because this amendment does not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalty, Fire protection, Incorporated by reference, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under 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 to adopt the following amendment to 10 CFR part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68, Stat. 936, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Public Law 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235,); sec. 102, Public Law 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Public Law 91–190, 83 Stat. 853 (42 U.S.C. 4332).

Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Public Law 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 50.46 (a) and (b), and 50.54(c) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.7(a), 50.10(a)-(c), 50.34(a) and (e), 50.44(a)-(c), 50.46(a) and (b), 50.47(b), 50.48(a), (c), (d), and (e), 50.49(a), 50.54(a), (i) (i)(1), (l)-(n), (p), (q), (t), (v), and (y), 50.55(f), 50.55a(a), (c)-(e), (g), and (h), 50.59(c), 50.60(a), 50.62(b), 50.64(b), 50.65, and 50.80(a) and (b) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.49(d), (h), and (j), 50.54(w), (z), (bb), (cc), and (dd), 50.55(e), 50.59(b), 50.61(b), 50.62(b), 50.70(a), 50.71(a)-(c) and (e), 50.72(a), 50.73(a) and (b), 50.74, 50.78, and 50.90 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In 50.54, paragraph (ee) is added to read as follows:

§ 50.54 Conditions of Licenses.

* * * * *

(ee) Each license issued under this part authorizing the possession of byproduct and special nuclear material produced in the operation of the licensed reactor includes, whether stated in the license or not, the authorization to receive back that same material, in the same or altered form, from a licensee of the Commission or an Agreement State. The authorization is subject to the same limitations and requirements applicable to the original possession of the material. This paragraph does not authorize the receipt of any material recovered from the reprocessing of irradiated fuel.

Dated at Rockville, Maryland, this 16th day of April, 1992.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 92–9595 Filed 4–23–92; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-CE-24-AD]

Airworthiness Directives; Beech 35 and 36 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede Airworthiness Directive (AD) AD 80-21-02, which currently requires the installation of a fuel drain line on certain Beech Model A36TC airplanes. The Federal Aviation Administration (FAA) has determined (1) that the applicability of AD 80-21-02 should be extended to include certain Beech 35 series airplanes that are equipped with an optional Teledyne Continental Motors (TCM) TSIO-520-D engine; and (2) that the fuel metering units on these airplanes as well as the fuel metering units on the Model A36TC airplanes should be inspected to ensure that there are no fuel leaks and that any leaking unit should be repaired. The actions specified by the proposed AD are intended to prevent fuel leaks, which could result in a fire in the engine compartment of the airplane.

DATES: Comments must be received on or before July 1, 1992.

ADDRESSES: Submit comments in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-24-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that is applicable to this AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Peterson, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4145.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92-CE-24-AD." The postcard will be date stamped and returned to the commenter. Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-24-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 80-21-02, Amendment 39-3968 (45 FR 74468, November 10, 1980), currently requires the installation of a fuel drain line on certain Beech Model A36TC airplanes. This AD action was the result of two instances where certain Beech Model A36TC airplanes developed fuel leaks inside the idle mixture screw boss. One of these instances resulted in an in-flight fire, which led to loss of control of the airplane. The other instance did not result in a fire. In both instances, the fuel leakage was caused by a faulty o-ring, which seals the idle mixture screw in the boss.

The FAA has examined information submitted by the manufacturer, and had determined that certain Beech 35 series airplanes that are equipped with the optional TCM TSIO-520-D engine have idle mixture adjustment screw boss designs identical to that of the Beech Model A36TC airplanes and are susceptible to the same fuel leak problem as that addressed in AD 80-21-02. On these Beech 35 series airplanes, fuel can leak from the boss if the o-ring does not seal, and the fuel could then drop onto the exhaust/turbocharger system or the heater. This condition, if not detected and corrected, would result in an in-flight fire if the temperature exceeds the fuel auto-ignition temperature.

AD 80-21-02 did not provide detailed instructions for the installation of the fuel drain line. Based upon this and the fact that the AD is over 10 years old, the FAA has determined that those airplanes in compliance with AD 80-21-02 should require a one-time inspection to ensure that the drain hose required by that AD has not deteriorated and that no fuel leaks are evident.

Beech has issued Service Bulletin No. 2420, dated February 1992, which specifies procedures for inspecting the fuel metering unit for leaks and installing a fuel drain line on certain Beech 35 and 36 series airplanes.

After examining the circumstances and reviewing all available information related to the incidents described above, the FAA has determined that AD action should be taken in order to prevent fuel leaks, which could result in a fire in the engine compartment of the airplane. Since an unsafe condition has been identified that is likely to exist or develop in other Beech 35 and 36 series airplanes of the same type design, the proposed AD would supersede AD 80-21-02, Amendment 39-3968, with a new AD that would (1) retain the fuel drain line installation required on certain Beech Model A36TC airplanes; (2) extend this fuel drain line installation to certain 35 series airplanes that are equipped with the optional TCM TSIO-520-D engine; (3) require an inspection of the fuel metering unit for leaks on all of the affected airplanes, and repair of the fuel control unit if fuel leaks are found; and (4) require replacement of any deteriorated fuel drain hoses that have been installed in accordance with AD 80-21-02. The actions would be accomplished in accordance with Beech SB No. 2420, dated February 1992.

The FAA estimates that 2,729 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1.5 hours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $50 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $365,692.50.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the

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

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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed 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, Safety.

The Proposed Amendment

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

PART 39—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 80–21–02, Amendment 39–3968 (45 FR 74468, November 10, 1980), and by adding the following new airworthiness directive:

Beech: Docket No. 92–CE–24–AD. Supersedes AD 80–21–02, Amendment 39–3968.

Applicability: The following Model airplanes, certificated in any category:

1. A36TC, serial numbers EA–1 through EA–146.

2. S35, V35, V35A and V35B, serial numbers D–7140 and D–7310 through D–10403, that are equipped with the optional Teledyne Continental Motors (TCM) TSIO–520–D engine.

Compliance: Required within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent fuel leaks, which could result in a fire in the engine compartment of the airplane, accomplish the following:

(a) For Model A36TC airplanes, determine whether a fuel drain hose is installed by accomplishing paragraphs 1. and 2. of PART I of the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin (SB) No. 2420, dated February 1992.

(1) If a fuel drain hose is not installed, prior to further flight, accomplish the following:

(i) Inspect the fuel metering unit for fuel leaks in accordance with paragraph 2. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(ii) Repair any fuel metering units found leaking as a result of the inspection required by paragraph (a)(1)(i) of this AD in accordance with paragraphs 3. and 4. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(iii) Install a fuel drain hose, part number (P/N) 106200G8–288, over the idle mixture screw boss in accordance with paragraphs 5. through 8. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(2) If a fuel drain hose is installed, prior to further flight, accomplish the following:

(i) Inspect the fuel metering unit for fuel leaks in accordance with paragraph 2. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(ii) Repair any fuel metering units found leaking as a result of the inspection required in paragraph (a)(1)(8) of this AD in accordance with paragraphs 3. and 4. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(iii) Check the condition of the fuel drain hose, and replace any hose that is deteriorated with a new hose, P/N 106200G8–288, in accordance with paragraphs 5. through 8. of Part II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(b) For Models S35, V35, V35A and V35B airplanes that are equipped with the optional TCM TSIO–10–520–D engine, accomplish the following:

(1) Inspect the fuel metering unit for fuel leaks in accordance with paragraph (2. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(2) Prior to further flight, repair any fuel metering units found leaking as a result of the inspection required by paragraph (a)(1)(i) of this AD in accordance with paragraphs 3. and 4. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SB No. 2420, dated February 1992.

(3) Install a fuel drain hose, part number (P/N) 106200G8–288, over the idle mixture screws boss in accordance with paragraphs 5. through 8. of PART II of the ACCOMPLISHMENT INSTRUCTIONS section of Beech SN No. 2420, dated February 1992.

(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 time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita Aircraft Certification Office.

(e) Service information that is applicable to this AD may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

(f) This amendment supersedes AD 81–21–02, Amendment 39–3968. Issued in Kansas City, Missouri, on April 20, 1992.

Joseph H. Knitkoff,

Acting Manager, Small Airplane Directorate, Aircraft Certification Office.

[FR Doc. 92–9564 Filed 4–23–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1301 and 1304

Definition and Exemption of Affiliated Practitioners

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Proposed rule; withdrawal.

SUMMARY: The DEA proposed rulemaking published February 4, 1991 (56 FR 4181), to amend its regulations by defining the term *affiliated practitioner* in part 1304, and exempt certain affiliated practitioners from the requirements in part 1301 is being withdrawn. A new proposed rule will be issued in the near future which will propose to establish a new registration category for mid-level practitioners.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION: On February 4, 1991, DEA published a notice of proposed rulemaking in the **Federal Register** (56 FR 4182) to amend its regulations by defining the term *affiliated practitioner* in part 1304 and exempting certain affiliated

practitioners from the requirements of registration in part 1301. DEA received 428 comments to the proposal, of which 419 were opposed. The comments represented that the new regulation would impede accessibility to and affect the quality of health care, especially in medically disadvantaged areas; physicians may be opposed to sharing their DEA registration numbers with affiliated practitioners; the use of separate DEA number/suffix combinations for each protocol would cause confusion; legal liability and responsibility would be confused by use of the physician's DEA registration number rather than an individual registration number; and pharmacies could face difficulties in verifying the legitimacy of prescriptions issued under such a procedure.

DEA agrees that the comments raise substantial issues and has determined that a new category of registrant is necessary to allow mid-level practitioners to be registered. Such a system will be published in the **Federal Register** in the near future in a Notice of proposed rulemaking. Therefore, the Deputy Assistant Administrator hereby withdraws the proposed rule published on February 4, 1991, (56 FR 4182).

Dated: April 1, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control.

[FR Doc. 92-9557 Filed 4-23-92; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[INTL-309-88]

RIN 1545-AL84

Determination of Interest Expense Deduction of Foreign Corporations; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed Income Tax Regulations relating to the determination of the interest expense deduction of foreign corporations engaged in a trade or business within the United States.

DATES: The public hearing will be held on Monday, August 31, 1992, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Monday, August 10, 1992.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R [INTL-309-88], room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-377-9231, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is a notice of proposed rulemaking that contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 882 of the Internal Revenue Code of 1986. These regulations are proposed to revise existing § 1.882-5. These regulations appear in the proposed rules section of this issue of the **Federal Register**.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Monday, August 10, 1992, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

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

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 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.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

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

[FR Doc. 92-9432 Filed 4-23-92; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[INTL-0309-88]

RIN 1545-AL84

Determination of Interest Expense Deduction of Foreign Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed Income Tax Regulations relating to the determination of the interest expense deduction of foreign corporations. This action is necessary because of changes to the applicable tax law made by the Tax Reform Act of 1986, and because of changes in international financial markets. These regulations would affect foreign corporations engaged in a trade or business within the United States.

DATES: Written comments must be received by July 23, 1992. Requests to speak (with outlines of oral comments) at a public hearing scheduled for August 31, 1992, must be received by August 10, 1992. See notice of hearing published elsewhere in this issue of the **Federal Register**.

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, attention: CC:CORP:T:R (INTL-0309-88), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the regulation, Karl T. Walli of the Office of Associate Chief Counsel (International) at (202) 566-6284. Concerning the hearing, Bob Boyer, Regulations Unit, at (202) 377-9231 (not toll-free calls).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 882 of the Internal Revenue Code of 1986. These regulations are proposed to revise existing § 1.882-5.

Explanation of Provisions

A. Overview

Section 882(a)(1) imposes upon foreign corporations a tax on taxable income which is effectively connected with the conduct of a trade or business within the United States ("ECI"). Section 882(c)(1)(A) provides that deductions are allowed to a foreign corporation only for purposes of the imposition of the tax under section 882(a) and only if

and to the extent that they are connected with ECI. Section 882(c)(1)(A) also provides that the proper allocation and apportionment of those deductions must be determined under regulations prescribed by the Secretary. The interest expense allocated and apportioned to a foreign corporation's ECI ("allocable interest expense") is determined under § 1.882–5.

The current regulations under § 1.882–5 provide a three step process for determining a foreign corporation's allocable interest expense. The first step, detailed in § 1.882–5(b)(1), requires determination of the average total value of the U.S.-connected assets held by the foreign corporation. The second step, detailed in § 1.882–5(b)(2), determines U.S.-connected liabilities by the use of either the fixed ratio method or the actual ratio method. The third step, detailed in § 1.882–5(b)(3), determines the foreign corporation's interest expense attributable to the U.S.-connected liabilities by the use of either the branch book/dollar pool method or the separate currency pools method.

These regulations propose amendments to the current regulations in order to: (1) Clarify certain issues raised in the implementation of the current version of § 1.882–5; (2) conform the existing regulation to subsequently enacted statutory provisions, such as sections 884 and 988; and (3) address developments in international financial markets, such as the development of notional principal contracts.

In a manner analogous to the existing regulations, the proposed regulations construct a balance sheet for a U.S. trade or business beginning with the assets that generate effectively connected income. These assets, generally assets related to the business activities of the U.S. trade or business (as opposed to investment activities), are termed "U.S. assets." "U.S. liabilities" of the trade or business are determined by multiplying the U.S. assets by the foreign corporation's actual ratio of worldwide liabilities to worldwide assets or by an elective fixed ratio. The U.S. liabilities are then multiplied by certain interest rates to determine the allocable interest expense.

The proposed regulations are organized in accordance with each step in the calculation. Section 1.882–5(a) provides rules of general application in performing the computation. Section 1.882–5(b) explains how the value of U.S. assets is determined. Section 1.882–5(c) explains how the amount of U.S. liabilities is determined. Section 1.882–5(d) gives the interest rates by which that amount of liabilities is multiplied. Sections 1.882–5 (e), (f), and (g) provide, respectively, a general anti-abuse rule, examples, and the effective date.

B. Explanation of Specific Provisions

1. Section 1.882–5(a): Rules of General Application

Many of the rules of general application in the existing regulations are moved to their relevant places in the three step process. Paragraph (a)(1) makes clear that the maximum allocable interest expense is the amount allowed under section 163(a). Amounts in excess of the maximum allocable interest expense in a taxable year are not allowed in prior or subsequent years. Paragraph (a)(2) makes clear that after allocating interest expense under § 1.882–5, other provisions, such as those that disallow, defer, or capitalize interest expense, must be applied. Regulations are expected to be proposed under section 265 which will specifically address the disallowance of interest expense of a foreign corporation subject to § 1.882–5. Comments are invited on how proposed regulations under section 265 should address the situation where a foreign corporation has ECI that is exempt from U.S. taxes under this subtitle, including ECI that is not subject to U.S. taxes (in whole or in part) by reason of section 894. In particular, comments are invited on whether the amount of interest expense disallowed under section 265 should be no less than the amount of interest expense allocated under § 1.882–5 to the foreign corporation's trade or business with respect to the U.S. asset that produces such tax-exempt income. Paragraph (a)(3) makes clear the interrelationship of the regulations with the provisions of U.S. tax treaties. See also Rev. Rul. 85–7, 1985–1 C.B. 188; Rev. Rul. 89–115, 1989–2 C.B. 130. Paragraph (a)(4) provides a special rule for allocating interest expense to the ECI of a foreign government.

2. Section 1.882–5(b): Determination of Total Amount of U.S. Assets for the Taxable Year (Step 1)

Step 1 begins by determining the assets to which interest expense is allocated. The three issues relating to the determination of the value of U.S. assets are (1) the classification of assets as U.S. assets, (2) the value of specific U.S. assets, and (3) how the average total value is computed for allocation purposes.

Paragraph (b)(1) provides, for simplicity and better conformity with section 884 (in particular, with section 884(c)(2)(C)), that the classification of an item as a U.S. asset under § 1.884–1T(d) generally governs its classification as a U.S. asset for purposes of § 1.882–5. The classification of U.S. assets is modified to take into account certain assets that are not treated as U.S. assets for purposes of section 884. The Service intends to issue final regulations under section 884 that will treat certain stocks and securities that produce income, gain, or loss only a portion of which is effectively connected with the conduct of a banking, financing, or similar business in the United States as U.S. assets in proportionate part, making it unnecessary to include the stocks and securities as U.S. assets in this proposed regulation. Consistent with general taxation principles, interbranch assets are disregarded. See e.g., § 1.863–7(a). It is also anticipated that the treatment of partnership assets and liabilities under section 884 and § 1.861–9T(e)(7) will be modified. The Service solicits comments on the treatment of partnership interests.

Paragraph (b)(2) provides that the value of a U.S. asset is computed using its U.S. tax basis or fair market value. Because the expansion capital election of § 1.884–T(d)(11) permits reinvestment of the capital of the branch in marketable securities, these amounts are treated as funded by capital, and hence their value for allocation purposes is zero. Because additions to bad debt reserves are charges to capital, the value of U.S. assets must be decreased by the bad debt reserves established with respect to these assets. Paragraph (b)(3) provides averaging and other rules for the computation of the total amount of U.S. assets.

3. Section 1.882–5(c): Determination of Total Amount of U.S. Liabilities for the Taxable Year (Step 2)

Step 2 allocates liabilities to the U.S. assets. This paragraph implements the general principle of fungibility: That is, a U.S. asset is funded by debt and equity in the same proportion as the debt to equity ratio of the entire corporation. This is accomplished by using the corporation's worldwide liabilities divided by its worldwide assets (the "actual ratio") to determine U.S. liabilities. The actual ratio for a bank, however, may not exceed 96%. At present, U.S. banks generally are required to maintain a "leverage ratio" (i.e., equity to assets) of 4%. As a result of the passage of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Federal Reserve Board and the Treasury Department are required to prepare, for submission to Congress, a report providing guidelines for determining whether the capital of

foreign banks conducting banking operations in the United States is equivalent to the capital standard for U.S. banks.

Fixed ratios of 93% and 50%, subject to the limit of paragraph (a)(1) of this section, are provided to banks and nonbanks, respectively. The 93% fixed ratio for banks was chosen with reference to U.S. regulatory requirements implementing the Basle Agreement on bank capital standards. See, e.g., 12 CFR part 208, appendix A. These regulations (and their foreign counterparts) will require maintenance of a total capital (Tier One plus Tier Two) ratio of 8%. Recognizing that assets are risk-weighted for purposes of the relevant banking regulations and that a portion of Tier Two capital may consist of subordinated debt, the Service believes that a fixed ratio of 93% is appropriate. The Service recognizes that, even after full implementation of the Basle Agreement, foreign banks may have worldwide liability-to-asset ratios exceeding 93%. The 93% fixed ratio is purely elective, however, and represents a safe harbor for taxpayers that prefer to forego computing their actual ratio.

U.S. assets are multiplied by the appropriate ratio to determine an amount of U.S. liabilities. As in the current regulations, U.S. tax principles govern the classification of assets and liabilities, and interbranch transactions are disregarded. While the term "U.S. liabilities" is the same one used in section 884 and the regulations thereunder, it should be noted that for purposes of this section the amount of U.S. liabilities is computed using an average amount of U.S. assets and worldwide assets and liabilities, while U.S. liabilities for purposes of section 884 are computed using the amount of U.S. assets and worldwide assets and liabilities as of the close of the taxable year.

Section 1.882–5 applies to insurance companies, and a section is reserved to address specific concerns of these companies, particularly with respect to the treatment of insurance reserves. The Service is interested in receiving comments from the public regarding the classification of insurance reserves as liabilities and other issues relevant to insurance companies.

Paragraph (c)(2)(iii) provides rules for the determination of amounts and values of worldwide assets and liabilities. Subdivision (C) of that paragraph applies the principles of section 864 (e)(4) and § 1.861–12T (c)(2) to 20% (rather than 10%) owned subsidiaries.

Paragraph (c)(2)(iv) generally follows the existing rules regarding averaging of amounts during the taxable year. In order to aid banks in the pricing of their loans, subdivision (B) of that paragraph provides an election to apply a prior period's actual ratio for purposes of Step 2.

4. Section 1.882–5(d): Determination of Amount of Interest Expense Allocable to ECI (Step 3)

This section applies an interest rate to the U.S. liabilities. The interest rates by which U.S. liabilities are multiplied are determined in a manner roughly parallel to the branch book/dollar pool method of existing § 1.882–5(b)(3)(i). The branch book/dollar pool method in the existing regulations divides U.S. liabilities into two portions to determine appropriate interest rates. The first portion (the "branch book" portion) is the booked liabilities of the branch. On this portion, exchange gain or loss is reflected separately on the Form 1120F in accordance with § 1.988–4(b). The interest rate on this portion is the average rate paid on booked liabilities. The second portion (the "dollar pool" portion) consists of liabilities booked outside the U.S. that are allocated to U.S. assets. The interest rate on this portion is the average interest rate on all U.S. dollar liabilities booked outside the United States. U.S. dollar interest rates are used on the assumption that the interest expense on a hedged nonfunctional currency liability approximates U.S. dollar interest expense.

Paragraph (d)(1) of the proposed regulations essentially retains the branch book/dollar pool method of the existing regulations, substituting objective dollar rates (90% of LIBOR for banks, 110% of LIBOR for nonbanks) for an actual dollar pool rate. The separate currency pools method is eliminated because (1) it is difficult to reconcile this method with the interest paid and excess interest elements of the branch taxes of section 884, (2) it only reduces and does not eliminate the problems of weak and strong currencies which the regulation originally was intended to solve, (3) auditing overseas interest rates is extremely difficult, and (4) the availability of currency swaps permits fungibility among currencies to be achieved (thereby undermining the underlying assumption of the method), as is evident by the fact that a true interest rate can be ascertained only by determining the effect of all interest rate and currency swaps.

As in branch book/dollar pool, the starting point of the proposed regulations is a comparison of the branch's booked liabilities with the amount of imputed U.S. liabilities. Paragraph (d)(2) generally provides that whether a liability is a "booked liability" essentially is a question of fact. This paragraph generally follows the factual determinants of the temporary regulations under section 884, which determine the liabilities that give rise to interest paid by a U.S. trade or business. The Service anticipates that final regulations under section 884 will determine the liabilities giving rise to interest paid by a U.S. trade or business by reference to the booked liabilities determined under these proposed regulations, once these regulations are finalized. The Service specifically solicits comments on this proposal. The proposed definition of "booked liability" is intended to facilitate determining the "interest paid" figure essential for section 884(f)(1). The paragraph presumes that excessively high cost liabilities are not booked liabilities. Booked liabilities usually are those matched (as supplemented by off-balance sheet items) by currency with U.S. assets. Currency mismatches proportionally greater than the firm's overall mismatch potentially distort branch income.

Paragraph (d)(3) provides rules for determining the allocable interest expense where booked liabilities equal or exceed U.S. liabilities. Where booked liabilities exceed U.S. liabilities, booked liabilities must be "scaled back" to equal U.S. liabilities. In such event, this paragraph provides that the interest expense on booked liabilities, income and expense from identified hedges of those liabilities, and exchange gain or loss from those liabilities are reduced by a "scaling ratio." The proposed regulation reserves on the coordination with § 1.988–1(a)(10), § 1.884–4T(b)(6), and section 864(c)(7). These sections potentially apply to the interbranch transfer of third party liabilities and hedges (which in theory occurs when they are scaled back). The Service is specifically interested in receiving comments from the public regarding appropriate rules for coordination with these sections.

Paragraph (d)(4) applies to determine the allocable interest expense where booked liabilities are less than U.S. liabilities. As discussed above, interest expense on the branch book portion remains based on booked interest rates. Interest expense on the dollar pool portion is determined by reference to objective rates: 90% of LIBOR for banks, 110% of LIBOR for nonbanks.

Paragraph (d)(5) provides an election to compute the daily amount of allocable interest expense in order to

provide banks with certainty for loan pricing.

5. *Sections 1.882–5 (e), (f), and (g)*

The district director or the Assistant Commissioner (International) is empowered by paragraph (e) to make adjustments to the formula in order to prevent abuses or distortions. Paragraph (f) provides examples, and paragraph (g) provides the effective date.

Special Analyses

It is hereby certified that the proposed rules will not have a significant impact on a substantial number of small entities. The rules will apply only to the allocation of interest expense of foreign corporations engaged in U.S. trade or business for U.S. income tax purposes. Pursuant to section 7805(f) of the Internal Revenue Code, these 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 Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are timely submitted (preferably a signed original and eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held on August 31, 1992. See notice of hearing published elsewhere in this issue of the Federal Register.

Drafting Information

The principal author of these regulations is Charles T. Plambeck, Special Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in developing the regulations.

List of Subjects in 26 CFR § § 1.881–1 through 1.884–5T

Foreign investments in United States, Income taxes.

Proposed amendments to the regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

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

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

Authority: 26 U.S.C. 7805 * * *.

Par. 2. Section 1.882–5 is revised to read as follows:

§ 1.882–5 Determination of interest deduction.

(a) *Rules of general application*—(1) *In general.* The amount of interest expanse of a foreign corporation that under section 882 (c) is allocable to income which is (or is treated as) effectively connected with the conduct of a trade or business within the United States ("ECI") is determined by the three step process set forth in this section. However, in no event may that amount exceed the amount of interest on indebtedness paid or accrued by the taxpayer within the taxable year (translated into U.S. dollars at the weighted average exchange rate within the meaning of § 1.989(b)–1 for the taxable year). See section 163, relating to the deduction for interest.

(2) *Coordination with other sections.* Provisions of the Code that disallow, defer, or capitalize interest expense that is connected with ECI apply after the allocations of this section. Thus, for example, in determining the amount of interest expense that is disallowed as a deduction under section 265 or 163(j), deferred under section 267(a)(3), or capitalized under section 263A with respect to a United States trade or business, a taxpayer takes into account only the amount of interest expense allocated to ECI in accordance with this section.

(3) *Coordination with treaties.* The rules of this section also apply for purposes of determining the interest expense attributable to business profits of a permanent establishment under U.S. income tax treaties. See generally Rev. Rul. 85–7, 1985–1 C.B. 188; Rev. Rul. 89–115, 1989–2 C.B. 130.

(4) *Special rule for foreign governments.* The amount of interest expense of a foreign government that is allocable to ECI is the total amount of interest paid or accrued within the taxable year by the United States trade or business on booked liabilities (as defined in paragraph (d) (2) of this section). However, interest expense of a foreign government is not allocable to ECI to the extent that it is incurred with respect to booked liabilities that exceed 80 percent of the total value of U.S. assets for the taxable year (determined under paragraph (b) of this section).

(b) *Step 1—Determination of total value of U.S. assets for the taxable year*—(1) *Classification of items as a U.S. asset*—(i) *General rule.* Except as otherwise provided in this paragraph (b)(1), an item is classified as a U.S. asset for purposes of this section only if that item is classified as a U.S. asset under § 1.884–1T (d). For this purpose, the "determination date" means each day for which the total value of U.S. assets is computed under paragraph (b) (3) of this section.

(ii) *Modification of definition of U.S. asset*—(A) *Exclusions.* For purposes of this section, the term "U.S. asset" excludes:

(*1*) An asset described in section 897 (c) (1) (A) (i), except in the year that gain or loss is recognized from the asset under section 897(a)(1); and

(*2*) An asset that produces income described in section 883 (a)(3) and (b).

(B) *Inclusions.* For purposes of this section, the term "U.S. asset" includes:

(*1*) An asset that produces income treated as ECI under section 921(d) or 926(b) (relating to certain income of a FSC and certain dividends paid by a FSC to a foreign corporation);

(*2*) An asset described in section 897(c)(1)(A)(ii) (relating to certain interests in a domestic corporation), but only in the year that gain or loss is recognized from the asset under section 897(a)(1);

(*3*) An asset that produces income treated as ECI under section 953(c)(3)(C) (relating to certain income of a captive insurance company that a corporation elects to treat as ECI); and

(*4*) an asset that produces income treated as ECI under section 882(e) (relating to certain interest income of possessions banks).

(iii) *Interbranch transactions disregarded.* A transaction of any type between separate offices or branches of the same taxpayer does not result in the creation of a U.S. asset.

(2) *Determination of value of a U.S. asset*—(i) *General rule.* Except as provided in this section, the value of an item treated as a U.S. asset is the adjusted basis for determining the gain or loss from the sale or other disposition of that item. See section 1011. See paragraph (c)(2)(iii)(A) of this section for an election to value assets using a fair market value method.

(ii) *Expansion capital not treated as a U.S. asset.* If a marketable security (or portion thereof) is treated as a U.S. asset solely by reason of § 1.884–1T(d)(11) (relating to expansion capital), such security (or portion thereof) is not treated as a U.S. asset for purposes of this section.

(iii) *Adjustments for items that produce wholly or partially untaxed income*—(A) *Assets described in § 1.884–1T(d) (2) through (10) and (12).* The value of a U.S. asset described in § 1.884–1T(d) (2) through (10) and (12) (relating to certain assets a portion of which produce ECI) is the adjusted basis of that asset multiplied by the proportion that is classified as a U.S.

asset in accordance with the rules of § 1.884–1T(d) (2) through (10) and (12).

(B) *Special rule for stock.* The value of stock that is treated as a U.S. asset is its adjusted basis multiplied by the amount of dividends generated by the stock that is ECI reduced by any dividend received deduction, and divided by the total amount of dividends generated by such stock in the taxable year.

(iv) *Reduction of total value of U.S. assets by amount of bad debt reserves under section 585.* The total value of U.S. assets is reduced by the amount of any reserve for bad debts, a reasonable addition to which is or was allowable as a deduction against ECI under section 585.

(v) *Examples.* The following examples illustrate the application of this paragraph (b)(2).

Example 1. FC is a foreign corporation that actively conducts business through a branch, B, in the United States. FC is engaged in the operation of a communications satellite system business and, by operation of section 883(b), all of FC's income that is ECI is exempt from United States taxation. Thus, under paragraph (b)(1)(ii) of this section, FC has no U.S. assets.

Example 2. FC is a foreign corporation that actively conducts business through a branch, B, in the United States. B's sole U.S. assets are a portfolio of loans with an adjusted basis of $500. FC accounts for its bad debts for U.S. federal income tax purposes under the reserve method, and B maintains a reserve for bad debts of $50. Under paragraph (b)(2)(iv) of this section, the total value of FC's U.S. assets is $450 ($500–$50).

(3) *Computation of total value of U.S. assets.* The total value of U.S. assets for the taxable year is the average of the sums of the values (determined under paragraph (b)(2) of this section) of U.S. assets computed at the most frequent, regular intervals for which data are reasonably available (and in no event less frequently than quarterly). The frequency of computations may not be decreased in subsequent years without the consent of the Commissioner.

(c) *Step 2—Determination of total amount of U.S. liabilities for the taxable year*—(1) *General rule.* The amount of U.S. liabilities for the taxable year equals the total value of the U.S. assets for the taxable year (as determined under paragraph (b)(3) of this section) multiplied by the actual ratio for the taxable year (as determined under paragraph (c)(2) of this section) or, if the taxpayer has made a valid and timely election in accordance with paragraph (c)(3) of this section, by the fixed ratio.

(2) *Computation of the actual radio*—(i) *In general.* A taxpayer's actual ratio is the total amount of its worldwide liabilities (including those of the U.S. trade or business) for the taxable year (determined pursuant to paragraph (c)(2)(iv) of this section) divided by the total value of its worldwide assets (including those of the U.S. trade or business) for the taxable year (determined pursuant to paragraph (c)(2)(iv) of this section). The actual ratio of a taxpayer that is a bank described in section 585(a)(2)(B) may not exceed 96 percent.

(ii) *Classification of items*—(A) *General rule.* The classification of an item as an asset or a liability must be consistent from year to year and in conformity with U.S. tax principles.

(B) *Interbranch transactions disregarded.* A transaction of any type between separate offices or branches of the same taxpayer does not result in the creation of an asset or liability.

(C) *Treatment of insurance reserves.* [Reserved]

(iii) *Determination of value of worldwide assets and amount of worldwide liabilities*—(A) *General rule.* The value of an asset is the adjusted basis of that asset for determining the gain or loss from the sale or other disposition of that asset. See section 1011. For purposes of computing the actual ratio, the value of a U.S. asset is not reduced or adjusted as provided in paragraphs (b)(2)(ii) and (iii) of this section. The amount of a liability is the amount determined according to U.S. tax principles. A taxpayer may elect to value all assets (including U.S. assets) on the basis of fair market value subject to § 1.861–9T(g)(1)(iii) and provided the taxpayer uses the methodology of § 1.861–9T(h). Once elected, the fair market value method must be used by the taxpayer in all subsequent taxable years unless the Commissioner or his delegate consents to a change. In the case of a taxpayer that elects to use the fair market value method, the term "fair market value" shall be substituted for the term "adjusted basis" in paragraphs (b)(2)(iii) and (c)(2)(iii)(E) of this section.

(B) *Amounts must be expressed in a single currency.* The actual ratio must be computed in either U.S. dollars or the functional currency of the home office of the taxpayer, and that currency must be used consistently from year to year. A particular value or amount is translated into the currency used to compute the actual ratio at the spot rate on the date that ratio is determined for purposes of this section. For example, if the taxpayer determines the actual ratio quarterly using British pounds, the U.S. dollar values of assets and amounts of liabilities of the U.S. trade or business must be translated into pounds using the spote rate on the last day of each quarter. Similarly, if the taxpayer determines the actual ratio quarterly using U.S. dollars, assets and liabilities the values and amounts of which are determined by reference to a functional currency other than the U.S. dollar must be translated into U.S. dollars using the spot rate on the last day of each quarter. See § 1.988–1(d)(1) for the definition of "spot rate."

(C) *Adjustment to value of certain subsidiaries.* For purposes of computing the actual ratio, the adjusted basis of any stock in a 20 percent owned corporation owned by the taxpayer is—

(*1*) Increased by the amount of the earnings and profits of the corporation (and of lower-tier 20 percent owned corporations) attributable to the stock and accumulated during the period the taxpayer held 20 percent or more of the stock, or

(*2*) Reduced (but not below zero) by any deficit in earnings and profits of the corporation (and of lower-tier 20 percent owned corporations) attributable to the stock for such period.

The adjustment is computed under the principles of § 1.861–12T(c)(2), is made annually and is noncumulative. However, if the corporation would not otherwise compute worldwide earnings and profits for U.S. tax purposes, the earnings and profits of a corporation for purposes of this paragraph (c)(2)(iii)(C) are the earnings (or losses) that the corporation reports on financial statements provided to its shareholders. The term "20 percent owned corporation" means any corporation (foreign or domestic) in which the taxpayer owns directly or indirectly 20 percent or more of the total combined voting power of all classes of stock entitled to vote.

(D) *Treatment of reserves for bad debts.* For purposes of computing the actual ratio, if the taxpayer is entitled under section 585 to use the reserve method for calculating bad debt deductions, then reserves for bad debts allowable under section 585 reduce the total value of worldwide assets.

(E) *Treatment of partnership assets and liabilities.* For purposes of computing the actual ratio, the value of a partner's share of assets of a partnership is the partner's adjusted basis in its partnership interest, reduced by the partner's share of liabilities of the partnership determined under section 752 and increased by the partner's share of liabilities determined under paragraph (d)(2)(vi) of this section. The amount of a partner's share of liabilities of a partnership is determined under paragraph (d)(2)(vi) of this section.

(iv) *Frequency of computations*—(A) *In general.* The total value of a taxpayer's worldwide assets for the

taxable year is the average of the sums of the values (determined under paragraph (c)(2)(iii) of this section) of its worldwide assets (including those of the U.S. trade or business). The total amount of its worldwide liabilities for the taxable year is the average of the sums of the amounts (determined under paragraph (c)(2)(iii) of this section) of its worldwide liabilities (including those of the U.S. trade or business). In each case, the average of the sums must be computed at the most frequent, regular intervals for which data is reasonably available (and in no event less frequently than quarterly). However, in the case of a large bank, as defined in section 585(c)(2), the sum of worldwide assets and liabilities must be computed no less frequently than monthly. The frequency of computations may not be decreased in subsequent years without the consent of the Commissioner.

(B) *Election regarding computation of actual ratio.* A taxpayer that is a bank described in section 585(a)(2)(B) may elect to compute the actual ratio for a taxable year by applying the rules of this paragraph (c)(2) with respect to a hypothetical taxable year ending six months prior to the end of the taxpayer's taxable year. The election is effective for the taxable year beginning after the date the election is made. Once elected, this method must be applied in subsequent years and may not be changed without the consent of the Commissioner. See *Example 2* of paragraph (f) of this section for an illustration of this method.

(3) *Fixed ratio method of determining U.S. liabilities.* A taxpayer that is a U.S. banking, financing, or similar business (as defined in § 1.864–4(c)(5)(i)) may elect to use a fixed ratio of 93 percent in lieu of the actual ratio. A taxpayer that is neither a U.S. banking, financing, or similar business (as defined in § 1.864(c)(5)(i)) nor an insurance company may elect to use a fixed ratio of 50 percent in lieu of the actual ratio. Once elected, the fixed ratio must be used by the taxpayer in all subsequent taxable years unless the Commissioner or his delegate consents to a change.

(d) *Step 3—Determination of amount of interest expense allocable to ECI*—(1) *General rule.* The amount of interest expense that is allocable to ECI is determined by comparing the amount of U.S. liabilities for the taxable year (as determined under *Step 2*) with the amount of booked liabilities, determined under paragraph (d)(2) of this section. If the amount of booked liabilities equals or exceeds the amount of U.S. liabilities, the amount of interest expense allocable to ECI is determined under paragraph (d)(3) of this section. If the amount of U.S. liabilities exceeds the amount of booked liabilities, the amount of interest expense allocable to ECI is determined under paragraph (d)(4) of this section.

(2) *Booked liabilities*—(i) *In general.* A liability is a booked liability if it is properly reflected on the books of the U.S. trade or business, within the meaning of paragraph (d)(2)(ii) of this section, and if the liability is not described in paragraph (d)(2)(iii) of this section.

(ii) *Properly reflected on the books of the U.S. trade or business.* A liability is properly reflected on the books of the U.S. trade or business if there is a direct relationship between the liability and the U.S. trade or business. This determination is a question of fact. A liability ordinarily is properly reflected on the books of the U.S. trade or business if—

(A) *Liabilities secured by U.S. assets.* The liability is secured (during at least half the days during the portion of the taxable year in which the interest accrues) predominantly by a U.S. asset of the foreign corporation unless the liability is secured by substantially all the property of the foreign corporation.

(B) *Booked liabilities of insurance companies*—(*1*) *In general.* In the case of a foreign insurance company, the liability (other than an insurance reserve) is taken into account by the insurance company on an annual statement approved by the National Association of Insurance Commissioners that is furnished to an insurance regulatory authority of a State or the District of Columbia.

(*2*) *Insurance reserves.* [Reserved]

(C) *Booked liabilities of banks.* In the case of a foreign corporation that maintains and operates a Federal branch, Federal agency, State branch or State agency (as these terms are defined in section 1(b) of the International Banking Act of 1978) (hereinafter "U.S. branch or agency"), either—

(*1*) *Liabilities reported to regulators.* The liability is treated as a liability of a U.S. branch or agency of these foreign corporation for purposes of regulatory requirements of the Federal Reserve Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, or an equivalent bank regulatory authority of a State or the District of Columbia (including a deposit with an international banking facility (as defined in 12 CFR 204.8(a)(1)) of the foreign corporation that is treated as a liability of the U.S. branch or agency for purposes of such regulatory requirements); or

(*2*) *Material participation of branch personnel.* Personnel of the U.S. branch or agency perform substantially all of the material activities required to incur the liability (regardless of whether the liability is entered on the books of a foreign branch, agency, or office of the taxpayer), and the liability funds a U.S. asset or the place of payment of interest on the liability is within the United States, as determined under section 6049.

(iii) *Liabilities that are not properly reflected on the books of a U.S. trade or business.* Unless otherwise determined by the district director or the Assistant Commissioner (International), a liability is not properly reflected on the books of the U.S. trade or business if—

(A) *Requirement of contemporaneous booking.* It is not entered on the books of the U.S. trade or business at a time reasonably contemporaneous with the time at which the liability is incurred;

(B) *Certain high interest rate liabilities of banks.* The foreign corporation maintains a U.S. branch or agency and the liability bears interest at a rate more than 3 percentage points higher than the adjusted federal rate for obligations of similar maturity (or its equivalent if in a foreign currency) at issuance;

(C) *Liabilities incurred in the ordinary course of the taxpayer's foreign business.* the liability is directly incurred in the ordinary course of the profit-making activities of a trade or business of the foreign corporation conducted outside the United States, as, for example, and account or note payable arising from the purchase of inventory or receipt of services by that trade or business;

(D) *Liabilities secured by foreign assets.* The liability is secured (during more than half the days during the portion of the taxable year in which the interest accrues) predominantly by property that is not a U.S. asset, unless the liability is secured by substantially all the property of the foreign corporation; or

(E) *Liabilities identified pursuant to section 884.* In the case of a foreign corporation not described in paragraph (d)(2)(ii)(C) of this section, the liability is identified pursuant to section I, part 2, of Notice 89–80, 1989–2 C.B. 394, unless it is also described in paragraph (d)(2)(ii) of this section.

(iv) *Interbranch transactions disregarded.* A transaction of any type between separate offices or branches of the same taxpayer does not result in the creation of a liability.

(v) *Denomination of booked liabilities must approximately match*

denomination of U.S. assets. In addition to the rules of paragraphs (d)(2)(i) through (iv) of this section, the district director or the Assistant Commissioner (International) may determine that—

(A) A liability (or group of liabilities) of a particular currency denomination (other than the U.S. dollar) is not a booked liability to the extent that the amount of the liabilities of that denomination recorded on the books of the U.S. trade or business exceeds by more than 10 percent the amount of U.S. assets of that denomination. The amount of liabilities considered not to be booked liabilities by the district director or the Assistant Commissioner (International) in accordance with this paragraph (d)(2)(v) is determined in accordance with the principles of paragraph (d)(3)(i)(A) of this section (relating to reduction of liabilities); or

(B) A liability (or a group of liabilities) of a particular currency denomination (other than the U.S. dollar) recorded on the books of the U.S. trade or business is less than 90 percent of the amount of U.S. assets of that denomination, in which case, in order to approximately match the denomination of U.S. liabilities with that of U.S. assets, the district director or the Assistant Commissioner (International) may apply to a portion of the U.S. liabilities equal to the difference between the booked liabilities and 90 percent of the amount of U.S. assets in that denomination an interest rate analogous to the rate required in paragraph (d)(4)(ii) of this section for denominations other than the U.S. dollar.

For this purpose, the effect of forward contracts, futures contracts, options, notional principal contracts, currently swaps, and similar financial instruments the income or expense from which ECI is taken into account. The rules of this paragraph do not apply with respect to any mismatch in the U.S. book liabilities and U.S. assets denominated in a particular currency if the taxpayer establishes to the satisfaction of the district director or the Assistant Commissioner (International) that such mismatch is representative of the taxpayer's worldwide position in that currency.

(vi) *Amount of liabilities of a partnership.* For purposes of this section a partner's share of the liabilities of a partnership is not determined under section 752. Instead, a partner shares in any liability of a partnership in the same proportion that it shares for income tax purposes in the interest expense attributable to that liability for the taxable year. Such share of liabilities is considered a booked liability of the partner provided that it is properly reflected on the books (within the meaning of paragraphs (d)(2) (ii) and (iii) of this section) of the U.S. trade or business of the partnership.

(3) *Allocable amount of interest where booked liabilities equal or exceed U.S. liabilities*—(i) *Determination of allocable interest expense*—(A) *In general.* If the amount of booked liabilities (as determined in paragraph (d)(2) of this section) equals or exceeds the amount of U.S. liabilities (as determined under *Step 2*), the amount of interest expense allocable to ECI is the total amount of interest paid or accrued within the taxable year by the U.S. trade or business on booked liabilities, reduced by the scaling ratio (as defined in paragraph (d)(2)(ii) of this section).

(B) *Definition of interest.* For purposes of this section, interest expense on booked liabilities is determined under section 163(a) and includes original issue discount under section 163(e). Bond premium properly taken into account under § 1.61–12 reduces interest expense.

(C) *Special rules for insurance companies.* [Reserved]

(ii) *Definition of scaling ratio.* For purposes of this section, the scaling ratio is calculated as follows:

$$\frac{BL - USL}{BL}$$

where

BL = the amount of booked liabilities; and
USL = the amount of U.S. liablities.

(iii) *Effect of certain interest equivalents.* Income or expense or gain or loss from a notional principal contract (as defined in § 1.863–7) that is ECI (or, in the case of an expense or a loss, allocable to ECI) and that is identified as a hedge of a booked liability also must be reduced by the application of the scaling ratio. The rules of § 1.861–9T(b)(6) govern the identification of a notional principal contract as a liability hedge.

(iv) *Effect of exchange gain or loss.* All exchange gain or loss within the meaning of section 988 that is ECI (or, in the case of a loss, allocable to ECI) and that is attributable to a booked liability must be reduced by the application of the scaling ratio.

(v) *Coordination with § 1.988–1 (a) (10).* [Reserved]

(vi) *Coordination with § 1.884–4T (b) (6).* [Reserved]

(vii) *Coordination with section 864 (c) (7).* [Reserved]

(4) *Allocable amount of interest where booked liabilities are less than U.S. liabilities*—(i) *In general.* If the amount of U.S. liabilities (as determined under *Step 2*) exceeds the amount of booked liabilities, the amount of interest expense allocable to ECI is the total amount of interest paid or accrued within the taxable year by the U.S. trade or business on booked liabilities, plus the amount computed under paragraph (d)(4)(ii) of this section.

(ii) *Interest rates used for excess.* The excess of the amount of U.S. liabilities over the amount of booked liabilities is multiplied by the interest rate determined under this paragraph (d)(4)(ii).

(A) *Interest rate of banks.* If a taxpayer is a bank described in section 585(a)(2)(B), the applicable interest rate is 90 percent of the daily average for the taxable year of the interest rates for demand deposits in U.S. dollars that are offered by banks in the London interbank market ("LIBOR") and that appear on the Reuter Monitor Money Rates Service or other published source referenced consistently from year to year

(B) *Interest rate for nonbanks.* If a taxpayer is not described in paragraph (d)(4)(ii)(A) of this section, the applicable interest rate is 110 percent of the daily average for the taxable year of the interest rates for demand deposits in U.S. dollars that are offered by banks in the London interbank market ("LIBOR") and that appear on the Reuter Monitor Money Rates Service or other published source referenced consistently from year to year.

(5) *Election to compute daily amount of allocable interest expense.* A taxpayer that is a bank described in section 585(a)(2)(B) may elect to compute the amount of interest expense allocable to ECI for the taxable year by applying the rules of this section to daily total amounts. For this purpose, the sum of U.S. assets must be computed daily, the actual ratio most recently computed under the frequency rules of paragraph (c)(2)(iv) of this section is applied to such daily U.S. asset amounts, and paragraph (d)(4)(ii) of this section is applied by substituting "the day's interest rate" for "the daily average for the taxable year of the interest rates." The allocable amount under this section is the sum of the daily computations. The election is effective for the taxable year beginning after the date the election is made. Once elected, this method applies unless the Commissioner consents to a change. See *Example 2* of paragraph (f) of this section for an illustration of this method.

(e) *Adjustments.* The district director or the Assistant Commissioner

(International) may make appropriate adjustments to the computation of allocable interest expense (and to amounts related to interest, such as income or expense attributable to notional principal contracts and section 988 gain or loss related to liabilities) allocable to ECI under this section when necessary to reflect a transaction in accordance with its substance, to prevent evasion of taxes, or to reflect clearly the income of the trade or business. Thus, for example, the district director or the Assistant Commissioner (International) may require use of another interest rate for the excess under paragraph (d)(4)(ii) of this section, and may disallow the use of the method of computing allocable interest under paragraphs (c)(2)(iv)(B) and (d)(5) of this section. Similarly, the district director or the Assistant Commissioner (International) may offset loan amounts to or from related persons with loan amounts from or to related persons or other loan amounts if a purpose for making or incurring such loans is to increase the actual ration. For other rules relating to the disallowance of interest expense, see § 1.882–4 and sections 6038A and 6038C.

(f) *Examples.* The following examples illustrate the rules of this section.

Example 1—(i) *Facts.* FC is a foreign corporation that actively conducts a real estate business through a branch, B, in the United States. For the taxable year, FC's balance sheet and income statement is as follows (assume amounts are in U.S. dollars and computed in accordance with paragraphs (b)(2) (i) and (b)(3) of this section:

Value	Income
Asset 1—$1,000	100
Asset 2—$2,500	250
Asset 3—$5,500	600

Amount	Expense
Liability 1—$1,000	100
Liability 2—$3,500	210
Capital—$4,500	0

Asset 1 is the stock of a wholly owned U.S. subsidiary. Asset 2 is a building in the U.S. that produces rental income. Asset 3 is a building in the home country of FC that produces rental income. Liabilities 1 and 2 are loans that bear interest at the rates of 10% and 6%, respectively. Liability 1 is a booked liability of B, and Liability 2 is booked in FC's home country. 110% of LIBOR for the taxable year is 8%.

(ii) *Step 1.* Assume that Asset 1 is not considered to be a U.S. asset under paragraph (b)(1)(iii) of this section. Assume that Asset 2 is classified as a U.S. asset under paragraph (b)(1) of this section. Thus, under paragraph (b)(3) of this section, the total value of U.S. assets for the taxable year is $2,500, the value of Asset 2.

(iii) *Step 2.* Under paragraph (c)(1) of this section, the amount of U.S. liabilities for the taxable year is determined by multiplying $2,500 (the value of U.S. assets determined under Step 1) by the actual ratio for the taxable year. The actual ratio is the average amount of worldwide liabilities divided by the average value of worldwide assets. The amount of Liability 1 is $1,000, and the amount of Liability 2 is $3,500. Thus, the numerator of the actual ratio is $4,500. The average value of worldwide assets includes the value of Asset 1 by operation of paragraph (c)(2)(iii)(A) of this section. Therefore the denominator of the actual ratio is $9,000 (Asset 1+Asset 2+Asset 3). The actual ratio therefore is 50% ($4,500/$9,000) and the amount of U.S. liabilities for the taxable year is $1,250 ($2,500×50%).

(iv) *Step 3.* Under paragraph (d)(1) of this section, the amount of interest expense allocable to ECI is determined by multiplying $1,250 by certain interest rates. Because the amount of U.S. liabilities ($1,250) exceeds the amount of B's booked liabilities ($1,000), under paragraph (d)(4) of this section, the amount allocable to B's ECI is $100, the interest reflected on B's books, plus $20 [($1,250−$1,000)×8%]. Thus a total of $120 of interest expense is allocable to B's ECI. Because $120 is less than $315 (the total interest paid by FC), the second sentence of paragraph (a)(1) of this section is not applicable.

Example 2—(i) *Facts.* FC is a calendar year foreign corporation engaged in the active conduct of a banking business through a branch, B, in the United States. FC is also a large bank as defined in section 585(c)(2), and has no reserve for bad debts. FC has made a valid election under paragraph (c)(2)(iv)(B) of this section to compute the actual ratio with respect to a hypothetical taxable year ending six months prior to the end of its taxable year. It also made a valid election under paragraph (d)(5) of this section to compute interest expense allocable to ECI on a daily basis. FC has not identified any liabilities under Notice 89–80. This example illustrates the computation of allocable interest expense for the period January 1, 1993 through February 15, 1993.

(ii) *Step 1.* Because FC has made an election under paragraph (d)(5) of this section, it must compute the total amount of U.S. assets on a daily basis. On January 1, 1993, the value of FC's U.S. assets in $10,000, and this value remains constant through February 15, 1993.

(iii) *Step 2.* FC computes its actual ratio monthly. Because FC has made the election provided by paragraph (c)(2)(iv)(B) of this section, it must apply the actual ratio computation of six months prior. The actual ratio of June 30, 1992 was 90%, and on July 31, 1992 was 94%. The amount of U.S. liabilities for each day during the period from January 1, 1993 to January 31, 1993 is therefore $9,000 ($10,000 of U.S. assets×90% actual ratio). The amount of U.S. liabilities for each day during the period from February 1, 1993 to February 15, 1993 is $9,400 ($10,000 of U.S. assets×94% actual ratio).

(iv) *Step 3.* On January 1, 1993, the amount of B's booked liabilities within the meaning of paragraph (d)(2) of this section is $9,200, and this amount remains constant through February 15, 1993. For the period from January 1, 1993 through February 15, 1993, such liabilities reflect interest expense at 10% per annum (for ease of exposition, interest is not compounded in this example). Assume that 90% of LIBOR (the rate described in paragraph (d)(4)(ii)(A) of this section) is 8% per annum.

(A) The amount of allocable interest expense for each day during the period from January 1, 1993 to January 31, 1993 is computed as follows: Because over this period the amount of B's booked liabilities ($9,200) exceeds the amount of U.S. liabilities ($9,000), interest expense associated with B's booked liabilities must be reduced by the scaling ratio described in paragraph (d)(3)(ii) of this section. The scaling ratio is 2.17% [($9,200−$9,000)÷$9,200]. The total amount of interest expense associated with B's booked liabilities during the month of January (prior to a reduction by the scaling ratio) is $79.22 [($9,200 booked liabilities×10% per annum/360 day year convention)×31 days]. The amount of interest expense reduce by application of the scaling ratio is $1.72 ($79.22×2.17%). Thus the total amount of interest expense allocable to ECI for the month of January is $77.50 ($79.22−$1.72).

(B) The amount of allocable interest expense for each day during the period from February 1, 1993 to February 15, 1993 is computed as follows: Because over this period the amount of U.S. liabilities ($9,400) exceeds the amount of B's booked liabilities ($9,200), the daily amount of interest expense allocable is the $2.56 ($9,200×10% per annum/360 day year convention) interest accrued on the $9,200 loan, plus the amount determined under paragraph (d)(4)(ii) of this section. Such amount is $0.04 ($200×8% per annum/360 day year convention). The total amount of interest expense allocable to ECI for this period is $39 ($2.60×15 days).

Example 3. FC is a foreign corporation engaged in the active conduct of a banking business through a branch, B, in the United States. In 1992, P, a foreign corporation, deposits $100,000 in the home office of FC. Shortly thereafter, B lends $80,000 to S, a wholly owned U.S. subsidiary of P. The district director or the Assistant Commissioner (International) determines that the substance of the transaction is that P directly lent $80,000 to S. Thus, for purposes of *Step 2* of this section, the district director or the Assistant Commissioner (International) under paragraph (e) of this section may offset FC's liability and asset arising from this transaction, resulting in a net liability of $20,000 that is not a booked liability of B.

Example 4. FC is a foreign corporation engaged in the active conduct of a banking business through a branch, B, in the United States. In 1992, P, a foreign corporation, negotiates a $100,000 borrowing with the home office of FC. P requests that the home office of FC distribute the loan proceeds to S, a wholly owned U.S. subsidiary of P, by means of a transfer from B. Assuming the

loan is not attributable to B, the loan is not a U.S. asset for purposes of Step 1 of this section. Similarly, if in 1993 FC transfers the loan to B and B assumes full responsibility for servicing the loan, the loan is not a U.S. asset for purposes of Step 1 of this section because under section 864 whether a security is attributable to B is determined only at the acquisition of that security. Instead, the district director or the Assistant Commissioner (International) may determine that income representing a service fee is allocable to B.

(g) *Effective date.* This section is effective for taxable years beginning after [DATE FINAL REGULATIONS ARE PUBLISHED IN THE FEDERAL REGISTER].

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 92-9289 Filed 4-23-92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900-AE61

Regional Office Committees on Waivers and Compromises

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: In order to comply with legislative changes to 38 U.S.C. 5302 (formerly 3102), the Department of Veterans Affairs (VA) proposes to amend current VA regulations which establish the standards by which Committees on Waivers and Compromises consider requests for waiver of collection of all benefit and home loan program debts.

DATE: Comments must be received on or before May 26, 1992. Comments will be available for public inspection until June 8, 1992. This amendment is proposed to be effective 30 days after the date of publication of the final rules.

ADDRESSES: Interested persons are invited to send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Comments will be available for inspection in the Veterans Services Unit, room 170, at the above address between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until June 8, 1992.

FOR FURTHER INFORMATION CONTACT: Peter Mulhern, (202) 233-3405.

SUPPLEMENTARY INFORMATION: Sections 1.963, 1.964, and 1.965 of title 38 of the Code of Federal Regulations establish the standards by which our Regional Office Committees on Waivers and Compromises consider waiver requests on all benefit and home loan program debts. This authority comes directly from section 5302 of title 38 of the U.S. Code. Congress recently enacted Public Law 101-237, "The Veterans Benefits Amendment Act of 1989" (December 18, 1989), which revised section 5302(c). Prior to this legislative change, section 5302(c) stated that the authority to waive recovery of any payment or the collection of any indebtedness may not be exercised if there existed an indication of fraud, misrepresentation, material fault, or lack of good faith on the part of the person or persons having an interest in obtaining a waiver. Public Law 101-237 removed material fault and lack of good faith as absolute bars to waiver and replaced them with bad faith. As a result, we must now revise the three regulations to comply with these new standards.

The Secretary hereby certifies that these proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604. The reason for this certification is that these proposed rules primarily affect only individuals indebted to the U.S. Government as a result of participation in benefit programs administered by the Department of Veterans Affairs. These proposed rules have also been reviewed under E.O. 12291 and have been determined to be nonmajor because they will not have a $100 million annual effect on the economy and will not have any adverse economic impact on or increase costs to consumers, individual industries, Federal, State, and local government agencies or geographic regions.

There is no Catalog of Federal Domestic Assistance number.

List of Subjects in 38 CFR Part 1

Claims, Administrative practice and procedures, Veterans.

Approved: March 20, 1992.

Edward J. Derwinski,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR Part 1 is proposed to be amended as set forth below.

PART 1—GENERAL PROVISIONS

1. The authority citation for §§ 1.955 thru 1.970 is revised to read as follows:

Authority: 38 U.S.C. 3720 and 5302; 5 U.S.C. 5584.

2. In § 1.963, paragraph (a) and the authority citation for § 1.963 are revised to read as follows:

§ 1.963 Waiver-other than loan guaranty.

(a) *General.* Recovery of overpayments of any benefits made under laws administered by the VA shall be waived if there is no indication of fraud, misrepresentation, or bad faith on the part of the person or persons having an interest in obtaining the waiver and recovery of the indebtedness from the payee who received such benefits would be against equity and good conscience.

* * * * *

(Authority: 38 U.S.C. 5302(a) & (c)).

3. In § 1.964, paragraph (a) and the authority citation for § 1.964 are revised to read as follows:

§ 1.964 Waiver-loan guaranty.

(a) *General.* Any indebtedness of a veteran or the indebtedness of the spouse shall be waived only when the following factors are determined to exist:

(1) Following default there was a loss of the property which constituted security for the loan guaranteed, insured or made under chapter 37 of title 38 United States Code;

(2) There is no indication of fraud, misrepresentation, or bad faith on the part of the person or persons having an interest in obtaining the waiver; and

(3) Collection of such indebtedness would be against equity and good conscience.

* * * * *

(Authority: 38 U.S.C. 5302 (b) & (c)).

4. In § 1.965, paragraph (b)(2) and the authority citation for § 1.965 are revised to read as follows:

§ 1.965 Application of standard.

* * * * *

(b) * * *

(1) * * *

(2) *Bad faith.* This term generally describes unfair or deceptive dealing by one who seeks to gain thereby at another's expense. Thus, a debtor's conduct in connection with a debt arising from participation in a VA benefits/services program exhibits bad faith if such conduct, although not undertaken with actual fraudulent intent, is undertaken with intent to seek an unfair advantage, with knowledge of

the likely consequences, and results in a loss to the government.

* * * * *

(Authority: 38 U.S.C. 5302).

[FR Doc. 92-9479 Filed 4-23-92; 8:45 am]
BILLING CODE 8320-01-M

---

38 CFR Part 21

RIN 2900-AF63

Veterans Education; Miscellaneous Amendments

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: In VA's (Department of Veterans Affairs') response to the final report of the Commission to Assess Veterans' Education Policy VA stated it would make various regulatory changes in response to the Commission's recommendations. These regulatory changes include amendments to adjust the beginning dates of awards of educational assistance; amendments to change VA's definition of a change of program of education; and amendments to liberalize the two year operation requirement which courses must meet before they can be approved for VA training. This proposal implements the commitments VA made in its response with respect to Dependents' Educational Assistance and the Montgomery GI Bill—Active Duty. Any amendments needed to implement these commitments for other programs which VA administers will be published at a later date.

DATES: Comments must be received on or before May 26, 1992. Comments will be available for public inspection until June 8, 1992.

ADDRESSES: Send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 170 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until June 8, 1992.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, (202) 233-2092.

SUPPLEMENTARY INFORMATION: The Commission to Assess Veterans' Education Policy was established by law in 1986. The Commission was charged with the responsibility of writing a report on its findings, views and recommendations concerning various matters relating to the administration of VA educational assistance programs. This report was submitted to the Committees on Veterans' Affairs of the United States Senate and the United States House of Representatives as well as to the Secretary of Veterans Affairs. VA was required by law to respond to this report. The Commission, in turn, was required by law to submit a second report. VA was to have submitted its final report after receiving this second report. This final VA report has been submitted to the Congress.

As a result of this assessment process, VA is committed to amend the Code of Federal Regulations so that three changes in its policy are implemented. First, this proposal contains amendments that would adjust the beginning dates of awards of educational assistance so that students pursuing a standard college degree do not receive an earlier beginning date than similarly circumstanced students who are enrolled in courses which do not lead to a standard college degree.

Second, this proposal contains amendments which would reduce the number of circumstances which require VA to charge an individual with having changed his or her program of education.

Finally, this proposal contains amendments which increase the exceptions to the two-year operation requirement which courses must meet before they are approved for VA training. These amendments are a direct result of a proposal of the Commission.

The Department of Veterans Affairs has determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs has certified that these amended regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the amended regulations directly affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the programs affected by this proposal are 64.117 and 64.124.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: March 20, 1992.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36

For the reasons set out in the preamble, 38 CFR part 21, subparts D and K are amended as set forth below.

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

Authority: 72 Stat. 1114; 38 U.S.C. 501(a).

2. In § 21.4131 paragraphs (b) and (c)(1) are revised and an authority citation is added to paragraph (c) to read as follows.

§ 21.4131 Commencing dates.

* * * * *

(b) *Certification by school—the course or subject leads to a standard college degree.* (1) When the student enrolls in a course offered by independent study, the commencing date of the award or increased award of educational assistance will be the date the student began pursuit of the course according to the regularly established practices of the educational institution.

(2) Except as provided in paragraphs (b)(3), (b)(4) and (b)(5) of this section when a student enrolls in a resident course or subject, the commencing date of the award or increased award of educational assistance will be the first scheduled date of classes for the term, quarter or semester in which the student is enrolled.

(3) When the student enrolls in a resident course or subject whose first scheduled class begins after the

calendar week when, according to the school's academic calendar, classes are scheduled to commence for the term, quarter, or semester, the commencing date of the award or increased award of educational assistance allowance will be the actual date of the first class scheduled for that particular course or subject.

(4) When a student enrolls in a resident course or subject, the commencing date of the award will be the date the student reports to the school provided that—

(i) The published standards of the school require the student to register before reporting, and

(ii) The published standards of the school require the student to report no more than 14 days before the first scheduled date of classes for the term, quarter or semester for which the student has registered, and no later than the first scheduled date of classes for the term, quarter or semester for which the student has registered.

(5) When the student enrolls in a resident course or subject and the first day of classes is more than 14 days after the date of registration, the commencing date of the award or the increased award of educational assistance will be the first day of classes.

(Authority: 38 U.S.C. 3481(a), 3680(a); Pub. L. 98–525)

(c) *Certification by school or establishment—course does not lead to a standard college degree.* (1) Residence school: See paragraph (b) of this section.

* * * * *

(Authority: 38 U.S.C. 3481, 3687)

* * * * *

3. In § 21.4234 paragraph (a) is revised to read as follows.

§ 21.4234 Change of program.

(a) *Definition.* (1) Except as provided in paragraph (a)(2) of this section, a change of program consists of a change in the educational, professional or vocational objective for which the veteran or eligible person entered training.

(2) VA does not consider any of the following to be changes of program.

(i) A change in the type of courses needed to attain a vocational objective.

(ii) A change in the veteran's or eligible person's educational, professional or vocational objective following the successful completion of the immediately preceding program of education, or

(iii) A return to the veteran's or eligible person's prior educational, professional or vocational objective following a change in program.

(Authority: 38 U.S.C. 3691)

* * * * *

4. In § 21.4251 paragraph (g)(1) is revised and an authority citation is added at the end of paragraph (g)(1) to read as follows.

§ 21.4251 Period of operation of course.

* * * * *

(g) **Waivers.** * * *

(1) The Director of the VA field station of jurisdiction may exercise the waiver authority found in paragraph (a)(6) of this section to exempt from the 2-year operation requirement certain courses given pursuant to a contract with the Department of Defense or the Department of Transportation on or immediately adjacent to a military base, Coast Guard station, National Guard facility, or facility of the Selected Reserve located within a State. He or she may grant such a waiver only when he or she finds that:

(i) The school on an application sent through the State approving agency certifies that the course is available only to—

(A) Active duty military personnel,

(B) Coast Guard personnel,

(C) Members of the Selected Reserve,

(D) Members of the National Guard,

(E) Dependents of active duty military personnel,

(F) Dependents of active duty Coast Guard personnel,

(G) Civilian employees of the base or station,

(H) Persons who began the course while on active duty and who were discharged while remaining continuously enrolled in it, or

(I) Any combinations of these classes of people.

(ii) The State approving agency of the State in which the course is offered certifies that the course meets all other approval requirements.

(Authority: 38 U.S.C. 3689(b))

* * * * *

Subpart K—All Volunteer Force Educational Assistance Program (New GI Bill)

5. The authority citation for part 21, subpart K continues to read as follows:

Authority: 38 U.S.C. chapter 30, Pub. L. 98–525; 38 U.S.C. 503(c)

6. In § 21.7131 paragraphs (b) and its authority citation and paragraph (c)(1) are revised to read as follows.

§ 21.7131 Commencing dates. * * *

(b) *Certification by school—the course or subject leads to a standard college degree.* (1) When the student enrolls in a course offered by independent study, the commencing date of the award or increased award of educational assistance will be the date the student began pursuit of the course according to the regularly established practices of the educational institution.

(2) Except as provided in paragraphs (b)(3), (b)(4) and (b)(5) of this section when a student enrolls in a resident course or subject, the commencing date of the award or increased award of educational assistance will be the first scheduled date of classes for the term, quarter or semester in which the student is enrolled.

(3) When the student enrolls in a resident course or subject whose first scheduled class begins after the calendar week when, according to the school's academic calendar, classes are scheduled to commence for the term, quarter, or semester, the commencing date of the award or increased award of educational assistance allowance will be the actual date of the first class scheduled for that particular course or subject.

(4) When a student enrolls in a resident course or subject, the commencing date of the award will be the date of reporting provided that—

(i) The published standards of the school require the student to register before reporting, and

(ii) The published standards of the school require the student to report no more than 14 days before the first scheduled date of classes for the term, quarter or semester for which the student has registered.

(5) When the student enrolls in a resident course or subject and the first day of classes is more than 14 days after the date of registration, the commencing date of the award or the increased award of educational assistance will be the first day of classes.

(Authority: 38 U.S.C. 3014, 3023; Pub. L. 98–525)

(c) *Certification by educational institution or training establishment—course does not lead to a standard college degree.* (1) When a veteran or servicemember enrolls in a course which does not lead to a standard college degree and which is offered in residence, the commencing date of the award of educational assistance will be as stated in paragraph (b) of this section.

* * * * *

[FR Doc. 92–9478 Filed 4–23–92; 8:45 am]

BILLING CODE 8320–01–M

Notices

Federal Register
Vol. 57, No. 80
Friday, April 24, 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

Forest Service

Environmental Impact Statement; Jefferson National Forest et al.

AGENCY: Forest Service, USDA.

ACTION: Revised Notice; establishes the date, time, and location for a public meeting.

In the matter of Appalachian Power Company Transmission Line Construction-Cloverdale, Virginia, to Oceana, West Virginia. Jefferson National Forest, Appalachian National Scenic Trail, the New River, and R.D. Bailey Lake Flowage Easement Land. Virginia counties of Botetourt, Roanoke, Craig and Giles and the West Virginia counties of Monroe, Summers, Mercer and Wyoming.

SUMMARY: The Forest Service has established the date, time, and location for a public meeting being held to identify significant issues and alternatives to be considered in the environmental impact statement. The environmental impact statement is being prepared for a proposed action to authorize the Appalachian Power Company to construct a 765,000-volt transmission line across approximately twelve miles of the Jefferson National Forest, as well as portions of the Appalachian National Scenic Trail, the New River (at Bluestone Lake) and R.D. Bailey Lake Flowage Easement Land (at Guyandotte River). As required by the National Forest Management Act, any alternative selected that involves National Forest System land must be consistent with the existing Jefferson Land and Resource Management Plan; if it is not, the Plan will be amended accordingly.

DATES: The due date for submitting written comments on the proposed action is May 22, 1992.

ADDRESSES: Send written comments to: Joy E. Berg, Forest Supervisor; Jefferson National Forest; Attention: Power Line Project; 210 Franklin Road, SW. Caller Service 2900, Roanoke, Virginia 24001.

FOR FURTHER INFORMATION CONTACT: Frank Bergmann, Forest Service Project Coordinator, (703) 982–4348.

SUPPLEMENTARY INFORMATION: The Notice of Intent for the proposed action to authorize the Appalachian Power Company to construct a 765,000-volt transmission line across approximately twelve miles of the Jefferson National Forest, as well as portions of the Appalachian National Scenic Trail, the New River (at Bluestone Lake) and R.D. Bailey Lake Flowage Easement Land (at Guyandotte River) was published in the **Federal Register** on November 21, 1992 (56 FR 58677–58679). An amendment to this Notice of Intent was published in the **Federal Register** on March 13, 1992 (57 FR 8835–9040).

The original notice indicated that the dates, times, and locations for public meetings would be made known to the public through the **Federal Register**. In addition to the five public meetings announced in the March 13, 1992 Notice of Intent amendment, the following public meeting has been scheduled to hear comments related to the proposed action and to develop the significant issues and route alternatives to be considered in the analysis. The public meeting will begin at 3 p.m. and end at 9 p.m.

April 30, 1992, Twin Falls State Park, Route 97, Mullens, West Virginia.

Dated: April 17, 1992.

Joy E. Berg,

Forest Supervisor, Jefferson National Forest.

[FR Doc. 92–9542 Filed 4–23–92; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket Nos. 4653–02 and 4653–04]

Discussion

In the Matter of: Brian A. Moller-Butcher individually and doing business as M.E.S. Equipment, Inc., Respondents.

On March 21, 1986, respondents were found to have violated the Export Administration Regulations by exporting, reexporting, and attempting to export U.S.-origin electronic testing and semiconductor manufacturing equipment without required validated export and reexport authorizations, and that the respondent had falsified and concealed material facts from United States Government officials in connection with the preparation and use of export control documents. *In the Matter of Brian A. Moller-Butcher, et al.* 51 FR 10418 (1986). This finding was made on the basis of evidence adduced at a hearing before an Administrative Law Judge (ALJ) at which respondents failed to appear. As a result of this finding respondents were denied export privileges for a period of 20 years.

For essentially the same conduct resulting in respondents' export privilege denial, respondents were criminally convicted in Massachusetts and the United Kingdom. Respondents served approximately four months in jail and paid fines to $25,000 and £2,500 on account of the criminal convictions.

I now have before me respondents' motion to reduce the period of export privilege denial. In support of that motion, respondents allege that they have been punished enough when consideration is given to the criminal convictions in addition to the denial of export privileges. Respondents also allege that their violations did not result in any real compromise of United States national security interests, that the denial of export privileges has devastated the business of the respondent Moller-Butcher and will prevent him from earning a living, and that respondents have cooperated fully with the United States Government by providing complete information and documents regarding past business dealings.

Respondents' motion was initially considered by the ALJ. The ALJ issued a decision reducing the period of export privilege denial as requested by respondents. I consider the ALJ's decision to be essentially an advisory recommendation. The Under Secretary has inherent discretion to review sanctions imposed in any case. The sanctions imposed on respondents were appropriate and reflect the serious nature of the offenses committed. Based on my review of the entire record made in this proceeding, I have concluded that respondents have not presented sufficient justification for reduction of the sanctions previously imposed.

Order

Respondents' motion to reduce sanctions imposed by the Order dated March 21, 1986, is hereby Denied.

This constitutes final agency action on this matter.

Dated: April 20, 1992.

Joan M. McEntee,

Acting Under Secretary for Export Administration.

Appearance for Respondent: Craig E. Stewart, Esq., Palmer & Dodge, One Beacon Street, Boston, MA 02108

Appearance for Agency: Thomas C. Barbour, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, room H–3839, 14th & Constitution Ave., NW., Washington, DC 20230

Preliminary Statement

This proceeding is a follow up to an administrative proceeding initiated on April 19, 1984 against Respondents Brian A. Moller-Butcher and M.E.S. Equipment, Inc. This portion of the proceeding was initiated by a request made by Respondent Moller-Butcher in which he filed a petition for relief from the Order dated February 19, 1986, through which Respondent and the above-captioned parties (Respondents) were denied export privileges.

Background

On April 19, 1984, the Office of Export Enforcement, International Trade Administration, U.S. Department of Commerce (the Agency), issued a charging letter to Respondents Brian A. Moller-Butcher (a/k/a Brian A. Butcher) and M.E.S. Equipment, Inc. alleging that Respondents committed violations of the Export Administration Act of 1979 (50 U.S.C. App. 2401-2420), as amended, (the Act) [1], and the Export Administration Regulations (currently codified at 15 CFR parts 768-799 (1990)) (the Regulations) [2]. *See In the Matter of Brian A. Moller-Butcher, et al.*, 51 FR 10418 (1986).

Respondents failed to answer the charging letter as required by 15 CFR 788.7(a). Under the Regulations, failure to answer the charging letter constitutes an admission of those charges by Respondents. 15 CFR 788.8. The Agency, in accordance with 15 CFR 788.8, submitted evidence to support the allegations contained in the charging letter. Based on the evidence submitted the Respondents were found to have engaged in export activities in violation of the Act and Regulations as alleged. The Administrative Law Judge (ALJ) entered a default order denying export privileges to Respondents Moller-Butcher and M.E.S. Equipment, Inc. as well as Contel Equipment and Scan-Furn for twenty years from the date of the Order. 51 Fed. Reg. 10418 (1986).

On March 21, 1986 the then-Assistant Secretary for Trade Administration [3] affirmed the Order of the ALJ.

On May 31, 1990, the Respondent filed with this Tribunal a Motion to Modify Sanctions Pursuant to Default Judgment, seeking relief from the terms of the February 19, 1986 Order. Following that submission on February 26, 1991, oral argument was received in a recorded conference with the parties. The record was closed for disposition on April 11, 1991.

The Motion to Modify Sanctions

Procedural Issue

Agency Counsel asserts that this Tribunal does not have the authority to modify the Order for the reason that the final Order was issued by the Under Secretary. The Agency maintains that under the statute and implementing regulations the Administrative Law Judge's role is only to make recommendations to the Under Secretary. Counsel claims that the ALJ therefore does not have general discretionary authority to entertain or grant Respondents motion, and because there is no regulatory basis for such a process the motion should be denied.

It is my finding that this Tribunal does have the authority to reconsider and modify the sanctions imposed as it does in initial proceedings. This power is derived from the statutory authority to impose sanctions in the first instance and is implicit in the delegation implemented by the regulations to suspend or modify those sanctions. As stated in *Albertson* v. *Federal Communication Commission*, 182 F. 2d 397, 399 (D.C. Cir. 1950), "The power to reconsider is inherent in the power to decide."

In deciding an issue similar to the case under consideration this Tribunal stated:

The disposition of this request is a matter within the authority and sound discretion of the Secretarial delegee responsible for administration of the Export Administration Act.

In the Matter of: Walter J. Spawr, et al., 54 FR 43975 (1989).

The Under Secretary has determined in previous cases that he has the inherent authority to review the sanctions imposed in any case where those sanctions continue in effect. This is not a reopening contemplated under § 788.18. So long as denial continues to be published in the Table of Denial Orders (Supp. 1 to part 788), the Secretarial delegee may act with respect to it. *In the Matter of Spawr, supra.*

Modification of Sanctions

The basis for Respondent Moller-Butcher's current request to modify the period of denial is that the sanctions imposed by the 1986 Decision and Order have severely restrained his ability to continue to conduct business in any aspect of the electronics industry anywhere in the world. Respondent Moller-Butcher claims that he has since paid his dues and learned his lesson and therefore the purpose of the Decision and Order has been fulfilled. Because of the Decision and Order, Respondent Moller-Butcher claims that contracts with his business have failed and trade in Europe and the UK has become more difficult. Respondent Moller-Butcher attributes his failed business and lack of financial stability, as well as inability to obtain employment in another field at age 57, to the placing of his name on the denial party list. Respondent Moller-Butcher also claims that he has borne great legal expense in defending against criminal prosecutions in the same matter and has cooperated fully with officials in matters following his arrest in Italy and extradition to Boston.

Respondents also assert that they were merely exporting or reexporting second-hand equipment and that, therefore their violations were really not significant. Respondents also point to statements by the judges in the two criminal proceedings in which they entered pleas of guilty to substantiate their position that what they did was really not that serious.[4]

---

[1] The Act expired on September 30, 1990. Executive Order 12730 (55 FR 40373 (1990)) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (Supp. 1990)).

[2] The Regulations, formerly codified at 15 CFR parts 368-399, were redesignated as 15 CFR parts 768-799, effective October 1, 1988 (43 FR 37751 (1988)).

[3] The functions exercised by the Assistant Secretary in 1986 in these matters are now exercised by the Under Secretary for Export Administration (Under Secretary).

[4] On November 19, 1985, in the Crown Court at Reading, England, in the case titled, *Regina* v. *Brian Arthur Moller-Butcher and MES Modern Equipment Services Ltd.* (Resp. Appendix at tab 4), Judge Ellison, VRD, in sentencing remarks said:

* * * [T]here is no evidence * * * that the offenses to which this defendant has pleaded guilty has done strategic damage to this country, or any of the other members of the NATO Treaty * * *

* * * Nor is it a case in fact of much profit * * * I have little doubt he was suffering under some commercial pressures. It is not for this court to pass judgment or discipline people or tell

Continued

Respondent Moller-Butcher believes that the fines, penalties, and sanctions have satisfied the U.S. government's interest in insuring that exports laws and regulations be vigorously enforced and have shown that justice in this case has already been served. Respondent further claims that the continued imposition of sanctions in this case no longer serves the ends of justice.

The sanctions imposed against Respondent Moller-Butcher were very severe, but the Respondent chose not to contest the charges and the charges reflect that the offenses were serious. Nevertheless, the request for clemency following the termination of the opprobrious effect of the British and U.S. federal criminal sanctions is understandable and may be considered in formulating a procedure to restore this Respondent and his business to fully productive members of society.

The compliance proceedings are not penal in nature. The criminal process, addressed that aspect of the matter. In reviewing the available historic records relating to the purpose of these administrative proceedings it is repeatedly asserted that they are remedial not penal.

It is also appropriate to consider the changing economic and geopolitical situation in Eastern Europe, the fulfillment of criminal sanctions, *see Spawr supra,* and the Respondents' total circumstances in determining whether a suspension, restoration, or other amelioration of the penalties should be invoked. Respondent Moller-Butcher's claim that justice has already been served, because of the imposition of cumulative fines and sentences which is now documented in the record, has merit.

I conclude that, when considered with the cited criminal proceedings as well as actions in other cases, the period of administrative denial for twenty years, since February 19, 1986, was severe, but warranted by the default at that time and the prior outstanding temporary denial order. I have also taken into consideration the age of the Respondent Moller-Butcher, his ability to be a productive member of society, the seriousness of the crime, his cooperation with U.S. officials, and the fact that Mr. Moller-Butcher has been punished in separate criminal proceedings in both the United States and Great Britain for essentially the same conduct which precipitated the 1986 Decision and Order of this Tribunal. In light of the additional information respecting criminal sanctions imposed by both the United States and Great Britain and the continuing authority of the latter state in particular to oversee Respondents' activities. I believe that a suspension of the remaining period of the denial would be appropriate and would aid in the patterned rehabilitation of these Respondents and will best serve the interests of justice and the intent of the Act and Regulations.

The Motion to Amend is Granted as hereafter set forth.

Order of Modification

The Order of February 19, 1986 as affirmed by the Secretarial Order on March 21, 1986 (51 FR 10418 et seq., March 21, 1986) is hereby Modified to insert the following as Paragraph III:

III. Commencing seven years from the date of the final Agency action taken on March 21, 1986, the denial of the export privileges set forth in paragraph II above shall be suspended, in accordance with § 788.16 of the Regulations, for the remaining portion of the twenty-year period set forth above, and shall be terminated at the end of such twenty year period, provided that Respondents have committed no further violations of the Act, the Regulations, or the final Orders entered in this proceeding. During the balance of the suspension period, Respondents may participate in transactions involving the export of U.S.-origin commodities or technical data from the United States or abroad in accordance with the requirements of the Act and the Regulations.

Paragraphs III through V of the Order of February 19, 1986 as affirmed are hereby renumbered as IV through VI. The provisions of Paragraphs IV through VI of this Order as amended shall also be suspended as set forth above commencing seven years from the date of the final Agency action taken on March 21, 1986.

So Ordered.

Dated: March 17, 1992.

Hugh J. Dolan,

Administrative Law Judge.

To be considered in the 30 day statutory review process which is mandated by section 13(c) of the Act, submissions must be received in the Office of the Under Secretary for Export Administration, U.S. Department of Commerce, 14th & Constitution Ave., NW., 3898B, Washington, DC., 20230, within 12 days. Replies to the other party's submission are to be made within the following 8 days. 15 CFR 788.23(b), 50 FR 53134 (1985). Pursuant to section 13(c)(3) of the Act, the order of the final order of the Under Secretary may be appealed to the U.S. Court of Appeals for the District of Columbia within 15 days of its issuance.

Certificate of Mailing

I certify that I have sent the attached document by first class U.S. mail, postage prepaid, to:

Craig E. Stewart, Esq., Palmer & Dodge
One Beacon Street, Boston, MA 02108

The attached document was hand-delivered to:

Thomas C. Barbour, Esq., Office of Chief Counsel for Export Administration, U.S. Department of Commerce, Room H-3839, 14th & Constitution Ave., NW., Washington, DC 20230

Dated: March 17, 1992.

Williemae Smith,

Support Services Assistant.

[FR Doc. 92-9566 Filed 4-23-92; 8:45 am]

BILLING CODE 3510-DT-M

---

other people how to do their business, but one could not gain a favorable impression of a system which occurred in 1982, whatever the reason is, when it takes one year for a man applying for a permit before he is told he can have it.

* * * Perhaps half the trouble has been brought on the defendant himself getting involved with proceedings in the United States,* * *.

* * * The fine in this case will be L2,500.00 in all.

Thereafter, on September 20, 1988, in the United States District Court, District of Massachusetts, *United States of America* v. *Brian A. Moller-Butcher* (Resp. Appendix at tab 6), Judge Zobel said:

The English charges, although they were, as to goods charged here in counts different than those to which Mr. Butcher pleaded, were still part of this whole course of conduct. I don't think one can simply sort them out and say, well, they were, different equipment. It was part of the whole picture.

* * * Unquestionably, Mr. Butcher violated the law. But I also have some difficulty seeing this defendant's conduct and the offense as warranting quite the sentence that the Government is recommending here.* * * I may be obtuse but I don't see it.

For these reasons, I sentence you, Mr. Butcher, to a term of imprisonment equal to the amount of time that you have already been in custody, and impose a fine of $25,000.00.

The U.S. District Court action did not take place until after the administrative action before this Tribunal in 1988.

Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held May 15, 1992, 9:30 a.m., in the Herbert C. Hoover Building, room 1617M, 14th & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affected the level of export controls applicable to telecommunications and related equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Approval of minutes.
3. Presentation of papers or comments by the public.
4. Report on status of U.S. implementation of Core List.
5. Discussion and recommendations for changes to Category 5 (Telecommunications & Information Security) for submission to COCOM in fall of 1992.

Executive Session

6. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address:

Lee Ann Carpenter, Technical Support Staff, OTPA/BXA, room 1621, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Washington, DC 20230

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 377–2583.

Dated: April 20, 1992.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 92–9569 Filed 4–23–92; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Docket 9–92]

Proposed Foreign-Trade Subzone Flowline Alaska (Pipeline Insulation Plant) Fairbanks, Alaska

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Fairbanks Industrial Development Corporation (FIDC), requesting special-purpose subzone status for the energy pipeline insulation plant of Flowline Alaska (Flowline), located in Fairbanks, Alaska. FIDC has an application pending with the Board for a general-purpose foreign-trade zone in Fairbanks (FTZ Doc. 8–92, filed 4–2–92). The subzone application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 7, 1992.

The proposed subzone would consist of two sites in the Fairbanks area: *Site 1*, Railroad Industrial site (28,000 sq. ft./17 acres)—main plant/warehouse, located at 1881 Livengood, Fairbanks; *Site 2*, South Fairbanks site (150 acres)—open storage and future plant expansion site located at Cartwright Road and Fifth Wheel Street in Fairbanks North Star Borough.

Flowline's primary service includes applying insulation and anti-corrosion materials to steel oil/gas piping for its customers. The process uses polyurethane and powdered fusion bonded epoxy to insulate steel pipe ranging from 2 to 60 inches in diameter. Galvanized steel and concrete are applied over the insulating materials as protective coverings. Some of the steel piping is of foreign origin (HTSUS Subheadings 7304.10, 7304.41, 7304.49), which would be admitted to the proposed subzone in privileged foreign status (19 CFR 146.41). All of the insulating and protective materials are sourced domestically. Some 10 percent of the insulated pipe is exported.

Zone procedures would exempt Flowline's customers from Customs duty payments on products that are exported. On domestic shipments, zone procedures would allow deferral of Customs duty payments (7.5% average duty rate) on the foreign pipe until it is withdrawn from the subzone for Customs entry. The application indicates that subzone status would help improve Flowline's international competitiveness.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 19, 1992. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 6, 1992).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 6450 Old Airport Way, Fairbanks, Alaska 99706.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: April 15, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92–9615 Filed 4–23–92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A–570–808]

Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order: Chrome-Plated Lug Nuts From the People's Republic of China

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

EFFECTIVE DATE: April 24, 1992.

FOR FURTHER INFORMATION CONTACT: Gary Bettger or Carole Showers, Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC., 20230; telephone: (202) 377–2239 and 377–3217, respectively.

Amendment to Final Determination and Antidumping Duty Order

Case History

Subsequent to the Department's final determination on September 10, 1991 (56

FR 46153), the following events have occurred. The Department's final determination was challenged in the U.S. Court of International Trade ("the Court"). *Consolidated International Automotive, Inc.* v. *United States*, Court No. 91–09–00700. Subsequent to that challenge, the Department developed new criteria for determining foreign market value in cases involving nonmarket economy countries. In light of these new criteria, the Department requested, and the court granted, a remand of the final determination. Consistent with the results of the remand, the Department is amending the final determination and order.

Scope of Investigation

The products covered by this investigation are one-piece and two-piece chrome-plated lug nuts, finished or unfinished. The subject merchandise includes chrome-plated lug nuts, finished or unfinished, which are more than 1 1/16 inches (17.45 millimeters) in height and which have a hexagonal (hex) size of at least 3/4 inches (19.05 millimeters) but not over one inch (25.4 millimeters). The term "unfinished" refers to unplated and/or unassembled chrome-plated lug nuts. The subject merchandise is used for securing wheels to cars, vans, trucks, utility vehicles, and trailers. Zinc-plated lug nuts, finished or unfinished, and stainless-steel capped lug nuts are not included in the scope of this investigation. Chrome-plated lock nuts are also not subject to this investigation.

Chrome-plated lug nuts are currently classified under subheading 7318.16.00.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheading is provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Period of Investigation

The period of investigation (POI) is May 1, 1990, through October 31, 1990.

Discussion

On September 10, 1991, the Department published in the **Federal Register** its final determination in this investigation. In that determination, the Department found, *inter alia*, that: (i) The PRC was a nonmarket economy country; (ii) available information did not permit foreign market value to be determined under section 773(a) of the Tariff Act of 1930, as amended, ("the Act") (19 U.S.C. 1677b(a)); and (iii) the presumption of state control had been overcome for steel and chemicals purchased in the PRC for use in the production of chrome-plated lug nuts. As a result, consistent with the policy articulated in that final determination, the Department calculated the foreign market value of the merchandise under investigation by valuing the Chinese manufacturer's steel and chemical factors of production with the internal PRC prices the manufacturer paid for its steel and chemical inputs.

The purpose of this amended final determination is to reevaluate whether the prices paid for domestically sourced steel and chemical inputs were market-determined and, moreover, to explain the policy the Department intends to apply in determining whether available information from a nonmarket economy country will permit the administering authority to determine the foreign market value of the merchandise pursuant to section 773(a) of the Act, "the market economy foreign market value provision."

As explained in the final determination, the Department determined whether the prices of PRC-sourced inputs were market driven "by analyzing the extent to which each factor input is state-controlled" (56 FR at 46154). Specifically, we examined whether the state participated in the specific transactions between the producer, the Lu Dong Grease Gun Factory ("Lu Dong") and its suppliers. We found that, in the case of both steel and chemicals, Lu Dong chose its own suppliers for commercially rational reasons without state interference, and that there was no evidence that the state was involved in setting the prices Lu Dong paid for its steel and chemical inputs.

Upon reexamination, we find that our scope of inquiry was too narrow. The absence of explicit government involvement in these transactions is not sufficient to warrant the conclusion that the prices for these inputs are market-driven. Instead, it is necessary to examine whether market forces are at work in determining the steel and chemical prices in general within the PRC.

For example, it may be the case that the state purchases large quantities of the input in question. Where this is so, it is reasonable to assume that the state's purchases affect the quantity available to non-state consumers and the prices they would pay. Also, where the state owns many of the input producers and where the input is an important commodity fundamental to the operation of the larger economy, it is not at all clear that the pricing and production of those input producers would mirror those of privately-owned, profit maximizing enterprises.

For the reasons, it is necessary to look beyond direct state involvement in the specific transactions between the manufacturer under investigation and its suppliers to ascertain whether market forces are actually at work in determining the input prices. In this investigation, information on the record does indicate that many of the concerns discussed above are present in the PRC steel sector.

As stated in the final determination in this proceeding, "the state has a considerable presence in the PRC steel sector" (56 FR at 46155). For example, Lu Dong's major supplier, Beijing Iron and Steel Company (a state-owned steel company), is one of the largest steel companies in the PRC. (See, Nonmarket Economy Verification Report at 29 on file in the Central Records Unit of the main Commerce Building). Each year, the Ministry of Materials Supply directs Beijing Iron and Steel regarding (1) the target amount of steel to produce, (2) what price to charge for government-directed production of in-plan steel, and (3) which state-owned companies will receive the steel produced at the direction of the government. The government-directed (or in-plan) steel refers to steel sold to non-state customers. While these guidance prices apparently operate "only as guidelines," it is unclear why guidelines are necessary. (See, Nonmarket Economy Verification Report at 30).

These factors lead the Department to conclude that, looking beyond the specific transactions between the chrome-plated lug nuts producer and its suppliers, the state does play a significant role in determining the amount to be produced and the prices to be charged for steel in the PRC. This is obviously true for government-directed steel production. Moreover, the fact that 45 percent of national steel production may be required by the state leads us to conclude that forces other than market forces are at work in determining the prices for steel sold outside the plan. Given our determination that steel prices in the PRC are not market-driven, there is no need to reach a similar determination with respect to any other significant inputs (see, explanation below).

Use of Domestic Prices to Value Inputs in a Nonmarket Economy

Section 773(c)(1) directs the Department to calculate foreign market value using the so-called "factors of production" methodology where:

(A) the merchandise under investigation is exported from a nonmarket economy country, and

(B) the administering authority finds that available information does not permit the foreign market value of the merchandise to be determined under subsection (a).

The Department has interpreted 773(c)(1)(B) to mean that foreign market value can be based on the NME exporter's prices or costs, despite the fact that the country may otherwise be considered an NME, if sufficient market forces are at work (Preliminary Determination of Sales at Less Than Fair Value: Oscillating Fans and Ceiling Fans From the People's Republic of China; 56 FR 25664, 25667). In Fans, the Department articulated a test for determining whether the producers in question operated in a market environment. This test required that 100 percent of the producer's inputs be purchased at market-determined prices.

Since that test was articulated, the Department has initiated two countervailing duty investigations pertaining to imports from the PRC. (Initiation of Countervailing Duty Investigations: Oscillating Fans and Ceiling Fans From the People's Republic of China; 56 FR 57616, November 13, 1991; and Initiation of Countervailing Duty Investigation of Chrome-Plated Lug Nuts and Wheel Locks From the People's Republic of China; 57 FR 877, January 9, 1992.) In determining to initiate those cases, we decided to revisit the issue of whether a country with an economy in transition can reasonably be determined to provide a "bounty" or a "grant" under the U.S. countervailing duty law. In those cases, the issue is not whether the entire country's economy has made the transition from nonmarket to market orientation. Rather, the issue is whether a part of the economy is operating in a market-oriented fashion and, if so, whether the Department may reasonably and, therefore, legally apply the countervailing duty law to determine if bounties and grants are being bestowed upon the subject merchandise.

Building upon the same considerations which led us to initiate those countervailing duty investigations, and consistent with the Court's holding in *Georgetown Steel Corporation* v. *United States*, 801 F.2d 1308 (Fed. Cir. 1986), *Georgetown*, we have developed a test which will allow us to determine whether a market-oriented industry exists in an economy which would otherwise be considered nonmarket. The Department believes that the test for finding such a market-oriented industry must begin with a strong presumption that such situations do not occur because nonmarket economies are riddled with distortions. The presumption against finding a market-oriented industry must prevail unless thorough and convincing evidence is presented on the record which demonstrates that the producers operate in an environment of market-based costs and prices and that bounties or grants bestowed on the subject merchandise can be reasonably discerned and measured.

In determining whether a market-oriented industry exists, the factors to be considered include, but are not limited to:

- For merchandise under investigation, there must be virtually no government involvement in setting prices or amounts to be produced. For example, state-required production or allocation of production of the merchandise, whether for export or domestic consumption in the nonmarket economy country would be an almost insuperable barrier to finding a market-oriented industry.
- The industry producing the merchandise under investigation should be characterized by private or collective ownership. There may be state-owned enterprises in the industry but substantial state ownership would weight heavily against finding a market-oriented industry.
- Market-determined prices must be paid for all significant inputs, whether material or non-material (*e.g.*, labor and overhead), and for an all but insignificant proportion of all the inputs accounting for the total value of the merchandise under investigation. For example, an input price will not be considered market-determined if the producers of the merchandise under investigation pay a state-set price for the input or if the input is supplied to the producers at government direction. Moreover, if there is any state-required production in the industry producing the input, the share of state-required production must be insignificant.

If these conditions are not met, the producers of the merchandise under investigation will be treated as nonmarket economy producers and the foreign market value will be calculated in accordance with section 773(c) (3) and (4).

In applying these factors to the PRC chrome-plated lug nut industry, we find that a significant input (*i.e.*, steel) is not purchased at a market-determined price because of the extent of state-required production of that input. Therefore, we have revalued the steel and chemical inputs used in the production of chrome-plated lug nuts relying on surrogate country values.

Revaluation of the Steel and Chemical Inputs Used in the Production of Chrome-Plated Lug Nuts

In the final antidumping duty determination, the Department valued Lu Dong's steel and chemical inputs used in the production of chrome-plated lug nuts using PRC-sourced prices. Based on the revised analysis discussed above, we have revalued Lu Dong's steel and chemical inputs used in the production of chrome-plated lug nuts based on surrogate values in Pakistan. We have deducted duties, surcharges, and taxes from the steel price reported by the U.S. Consulate in Karachi. We were unable to obtain a surrogate value for steel scrap from the Consulate in order to adjust the steel price for the sale of scrap. Therefore, as the best available information, we applied the percent difference between the PRC steel price and the PRC scrap price, as verified, to the Pakistani steel price used in this amended determination to obtain a surrogate scrap price. In addition, we added to the steel and chemical prices an amount for inland freight, based on freight rates obtained by the Consulate. Finally, because we received no surrogate information with respect to the value for "brightener," a chemical used in the chrome-plating process, we have valued this input using the best available information.

Interested Party Comments

Comment 1: Respondent argues that the Department's proposed standard for determining when to use domestic prices to value inputs in a nonmarket economy is contrary to law and represents an unwarranted retreat from the methodology announced by the Department in the final less than fair value (LTFV) determination. Petitioner, having challenged the test set out in the final LTFV determination, agrees that the test stated in this amended final determination "is made in accordance with the law."

DOC Position: As noted above, section 773(c)(1) of the Act requires that foreign market value be calculated on the basis of "factors of production" generally valued in an appropriate surrogate country, if

(A) The merchandise under investigation is exported from a nonmarket economy country, *and*

(B) The administering authority finds that the available information does not permit the foreign market value of the merchandise to be determined under subsection (a) [the "normal" methodology for determining foreign market value] of this section [emphasis added].

19 U.S.C. 1677b(c)(1).

The statute clearly requires that both section 773(c)(1) (A) and (B) be satisfied before the factors of production methodology is employed. If the facts permit, section 773(c)(1)(B) allows the Department to calculate foreign market value using normal foreign market value

methodologies despite the fact that the economy of the subject country, on a macro basis, is nonmarket in nature. This interpretation accords with the legislative history of the 1987 predecessor to this provision, which reads in relevant part:

> The Committee bill does not prohibit the Commerce Department from using its normal methodology for determining foreign market value in cases regarding nonmarket economy countries. If information submitted by a nonmarket economy country to the Commerce Department permits foreign market value to be determined accurately using the normal methodology, then the Committee expects such methodology to be used by the Commerce Department.

S. Rep. No. 100–71, 100th Cong., 1st Sess. 108 (1987). We agree with respondent that nothing in the subsequent Conference Committee modifications to the statutory language which became the 1988 law changed this intent (see, Omnibus Trade and Competitiveness Act of 1988, Public Law No. 100–418, section 1316, and H. Conf. Rep. No. 100–576, 100th Cong., 2d Sess. 591 (1988)).

While the law directs us to use normal (or market economy) methodologies where available information permits us to do so in determining foreign market value, there is no guidance in the statute to help us to identify those situations. Section 771 (18) sets out factors to be considered in determining whether a country should be considered a nonmarket economy country. Clearly, certain of these factors could be relevant to a determination of whether foreign market value for a particular industry could be calculated using a market economy methodology, and indeed, those which deal with the extent of government control over enterprises and allocation of resources are reflected in the test we have articulated. However, as we stated in our final determination:

> Because these criteria have a macroeconomic orientation, they are designed to be applied on an economy-wide basis rather than at a sectoral level. For example, while currency convertibility is an important criterion for evaluating the market-orientation of an overall economy, it is relatively unimportant when assessing the internal market forces that may or may not exist with respect to the production of a particular product. Similarly, while the extent of foreign investment may be a useful indicator of the market-orientation of the economy as a whole, foreign investment with respect to a particular product may have little, if any, effect upon the presence or absence of internal market forces in the production of that product.

56 FR at 46154–46155. Therefore, we have not adopted these criteria in their entirety.

Another source of guidance in developing our test is the Federal Circuit's decision in *Georgetown Steel Corp.* v. *United States*, 801 F.2d 1308 (Fed. Cir. 1986) Under *Georgetown*, where we are facing a nonmarket situation, the antidumping duty law is the sole remedy:

> Further support for [this] conclusion is furnished by the more recent actions of Congress in dealing with the problem of exports by nonmarket economies through other statutory provisions. Those statutes indicate that Congress intended that any selling by nonmarket economies at unreasonably low prices should be dealt with under the antidumping law.

801 F.2d at 1316.

An analysis of *Georgetown* indicates some of the concerns that led the Federal Circuit to conclude that the antidumping law, and particularly its special methodology for state-controlled economy countries, was the appropriate remedy for unfairly traded imports from those countries. The court pointed to the fact that:

> Although a nonmarket state may engage in foreign trade through various entities, the state controls those entities and determines where, when and what they will sell, and at what prices and upon what terms.

801 F.2d at 1315.

The court also cited the Department's finding that:

> the nonmarket environment is riddled with distortions. Prices are set by central planners. Losses suffered by production and foreign trade enterprises are routinely covered by government transfers. Investment decisions are controlled by the state. Money and credit are allocated by the central planners. The wage bill is set by the government. Access to foreign currency is restricted. Private ownership is limited to consumer goods.

801 F.2d at 1315.

Based on the Federal Circuit's ruling, we have concluded that where the imports under investigation are being produced and sold in a nonmarket setting, the antidumping law (using a factors of production methodology) is the sole remedy available to U.S. industries. However, where those characteristics identified by the Federal Circuit are not present, and we have sufficient confidence in the validity of all relevant costs and prices to permit their use in the dumping calculation, we have concluded that market economy remedies are available, *i.e.*, that the market economy provisions of the antidumping law and the countervailing duty law can be applied.

Comment 2: Respondent argues that the record does not support the Department's determination that the price of steel purchased in the PRC is not market-determined. The particular steel used by Lu Dong ("hexagonal-shaped leaded steel") is a specialty steel which, according to the Department's verification report, is not produced in-plan. Hence, it is not sold at an in-plan price nor is it sold to purchasers under government direction. Moreover, contrary to the Department's belief, there are no guidance prices for this type of steel. Respondent further claims that the Department has no evidence to support its conclusion that market forces are not generally at work in the PRC steel sector.

DOC Position: We disagree with respondent. In the final LTFV determination, we examined the extent of direct government involvement in the transactions between Lu Doug and its steel suppliers. We found, and continue to find, no direct involvement. However, we believe that the analysis applied in the final determination was too narrow. The absence of direct government involvement in specific transactions between buyers and sellers does not mean that the terms of those transactions reflect market-determined prices or values.

Respondent does not contest that Lu Dong's suppliers sold a portion of their steel, ranging from 25 to 50 percent, at in-plan prices. There is no evidence on the record to indicate that the experience of Lu Dong's suppliers is any different from that of other steel producers and distributors in the PRC.

We believe that 25 to 50 percent of production is significant. This is because when government-directed (i.e., in-plan) consumption accounts for this large a share of output, it is an indication that steel is an important, basic commodity. As such, these enterprises exist, in very large part, to service government demand for their output.

In these circumstances, it is not at all clear to us what forms the basis for pricing and output decisions on production not specifically directed by the government. For government-directed production, the enterprise is guaranteed sufficient inputs to produce the required output, at government-set prices. The enterprise is further guaranteed a customer for the government-directed output at a government-set price. The motivation for the production of this output is clear—the enterprise is directed to produce it to supply the needs of the state. Market considerations play no role.

When such a large proportion of output is produced without any regard to market considerations, we have to ask what role such considerations play with respect to output not directed by the government. As the verification

report indicates, Lu Dong's state-owned supplier, Beijing Iron and Steel, is given a target quantity to produce. (See, Nonmarket Economy Verification Report at 29). This indicates that the government plays an important role in determining the quantity to be produced. The government also sets ceiling prices for steel. (*Id.* at 30).

While we agree with respondent that the particular steel used by Lu Dong is not produced or sold pursuant to government direction, we believe that the extent of government involvement in the production and pricing decisions for steel generally affect the demand and supply for individual steel products. This is particularly true in this instance where the particular steel in question is produced by enterprises which have significant government-directed production and where the "general variety" of steel used by Lu Dong (SAE 10–10) is produced at the direction of the government. *Id.* at 29–30.

Comment 3: Petitioner believes that the values the Department is using for both steel and chemicals are low. For steel particularly, petitioner suggests that the Department use the upper price of the range reported by the Consulate, rather than the mid-point, because it more accurately reflects the world market price for *leaded* steel.

Respondent contends that the price of steel is too high and, as best information available, the Department should use the price of steel imported into the PRC from either Brazil or Japan, rather than the Pakistani import value provided by the Consulate.

DOC Position: We disagree with petitioner and respondent. For purposes of the amended final determination, we have valued steel using the imported Pakistani price of hexagonal-shaped leaded steel (SAE 10.10 S 20.6) obtained from the Consulate. We have determined that this price is in line with the international market price for this type of steel during our period of investigation. (See August 27, 1991, Memorandum to Susan Kuhbach from Gary Bettger and Rebecca Hunt regarding "Steel Prices Used in the Production of Chrome-Plated Lug Nuts)." With respect to petitioner's comment, we also disagree that the steel used by Lu Dong is "leaded steel," as that term is typically used. As the record reflects (See, *e.g.*, the above-mentioned August 27, 1991 memorandum, and the August 2, 1991, Public Hearing Transcript at pp. 54–59) the hexagonal-shaped leaded steel used by Lu Dong Grease Gun Factory (SAE 10–10 20.6) may contain traces of lead, but at a level insufficient to meet the requirements of a "leaded steel," per industry standards. The Department believes it is reasonable to take the mid-point of a range of factor values from the surrogate country when we have no reason to believe that either of the end-points provides a more accurate value to use in our calculations. Finally, with regard to the chemical values used by the Department, we have no reason to question the values provided to us by the Consulate.

With regard to respondent's argument, the respective prices of steel imported into the PRC from both Brazil and Japan do not necessarily represent prices of steel of the same type used by Lu Dong in the production of chrome-plated lug nuts (i.e., SAE 10.10 S 20.6). In order for the Department to use the Brazilian or Japanese price of a different type of steel, we would need to apply a value-added amount to adjust the price to reflect the hexagonal-shaped leaded steel. This would require the Department to make assumptions with respect to the value-added amounts that have not been investigated.

Comment 4: Respondent argues that the Department should deduct import duties and taxes from the Pakistani import values for a number of chemicals and sheet steel.

DOC Position: We disagree. According to cable correspondence from the U.S. Consulate, the reported Pakistani factor values "increase" by approximately 40 percent due to duties/taxes.

Consequently, we have determined that duties/taxes have already been deducted from these reported prices. This conclusion is substantiated by the fact that when we asked the Consulate for clarification of the steel price quoted in the same cables, we received a reply stating that duties/taxes had been excluded from the values reported in the original cables.

Comment 5: Petitioner argues that the Department should not make an adjustment for scrap based on only one invoice provided by respondent at verification.

DOC Position: We disagree. See, DOC Position to Comment 10, Final Determination of Sales at Less than Fair Value: Chrome-Plated Lug Nuts From the People's Republic of China (56 FR 46153, 46158, September 10, 1991).

Comment 6: Respondent argues that the Department should deduct the costs of ocean freight and marine insurance from the Pakistani import prices of hexagonal-shaped leaded steel, sheet steel, and chemicals.

DOC Position: We disagree. We have used Pakistani factor values exclusive of import duties and taxes. However, because the value of the factors of production should reflect the total cost of the input to the producer, we have determined that it is appropriate to use the delivered price of the imported good into the surrogate country as the price with which to value the factors of production in the PRC. Unlike taxes and duties, these movement charges would not be rebated upon exportation. Therefore, we have not deducted the costs of ocean freight and marine insurance as requested by respondent.

Comment 7: Petitioner contends that workers directly involved in the production of chrome-plated lug nuts are at least "semi-skilled." Consequently the wage rate for semi-skilled workers should be used to value the labor factor used in the production of chrome-plated lug nuts.

Respondent contends that the Department has made a clerical error in the calculation of the costs of unskilled labor. Furthermore, respondent argues that the skilled labor rate from Pakistan used by the Department in this case is different than that used by the Department in the concurrent Preliminary Determination of Sales at Less than Fair Value: Oscillating Fans and Celling Fans From the People's Republic of China; (56 FR 25664, June 5, 1991), and again requests that the Department verify the Pakistani industrial skilled labor cost. Finally, respondent suggests that the Department erroneously characterized the supervisors in the lug nut workshop as skilled labor.

DOC Position: Based upon a reexamination of information on the record, we agree with petitioner that workers directly involved in the production of chrome-plated lug nuts are semi-skilled. For instance, a number of these workers operate lathes. Workers operating lathes were listed in the semi-skilled category in the cable received from the Consulate. Therefore, we have used the reported semi-skilled wage rate in our calculations.

We also agree with respondent that the Department made a clerical error in its labor cost calculations. Consequently, this amended final determination reflects revised labor calculations. With regard to respondent's argument that skilled labor costs from Pakistan used in this investigation are out of line with other concurrent PRC cases where Pakistan is the surrogate, we have consulted a publication of the U.S. Department of Labor as an independent source. We have used the value obtained from this source as the best available information to resolve this conflict.

Finally, we disagree with respondent that the Department erroneously characterized the supervisors in the lug nut workshop as skilled labor. See, DOC Position to Comment 5, Final Determination of Sales at Less Than Fair Value: Chrome-Plated Lug Nuts From the People's Republic of China (56 FR 46153, 46157, September 10, 1991). However, we have reconsidered the manner in which we previously classified these "supervisors" and now believe it is more appropriate to treat those supervisors who are on the shop floor (i.e., the shift leaders) involved directly in the production of chrome-plated lug nuts as direct labor, and treat the other supervisors who are not so involved (i.e., management and maintenance workers) as indirect labor and, hence, include them in factor overhead. We have changed our calculations accordingly.

Comment 8: Petitioner argues that the Department's new test requires that Lu Dong's prices to the trading company be used as U.S. price, to the extent that those prices are lower than the adjusted selling prices that the trading company charges when selling Lu Dong's merchandise to the United States. In support of this claim, petitioner points out that Lu Dong and the trading company are unrelated, that the trading company is profitable, and that use of Lu Dong's prices to the trading company would also be consistent with the Department's practice in market economy cases.

DOC Position: We disagree. The Department's new test does not require such a conclusion. The test is aimed at determining how foreign market value should be calculated, not U.S. price. Moreover, the price between Lu Dong and the trading company is an internal PRC price subject to the same vagaries and distortions which have led us to reject Lu Dong's internal PRC steel and chemical prices. Thus, to the extent that the new test might be relevant, we would not use the price between the factory and the trading company because we have determined that the chrome-plated lug nut industry in the PRC is not market-oriented.

Comment 9: Petitioner argues that because the payment terms begin at the time a customer takes possession of the merchandise, the Department must make adjustments to reflect the finance costs up to the time payment is received. According to petitioner, issues relating to the offsetting adjustment in foreign market value for imputed costs do not arise since the lug nuts are sold exclusively to the U.S. market. However, interest costs should have been reflected in these prices.

DOC Position: We disagree. Consistent with the reasoning in DOC Position to Comment 2, Final Determination of Sales at Less Than Fair Value: Chrome-Plated Lug Nuts From the People's Republic of China (56 FR 46153, 46156, September 10, 1991), we have not made an adjustment for interest costs as requested by petitioner.

Comment 10: Petitioner suggests that the Department should not disregard those sales considered to be "cancelled" in the final determination.

DOC Position: We disagree. See, DOC Position to Comment 1, Final Determination of Sales at Less Than Fair Value: Chrome-Plated Lug Nuts From the People's Republic of China (56 FR 46153, 46156, September 10, 1991).

Comment 11: Petitioner contends that the Department should apply the cost of marine insurance to not only the cost of the lug nuts, but to the cost of the lug nuts plus freight, since marine insurance was reported by the Consulate as a percentage of the C&F value of the merchandise.

DOC Position: We agree. Consequently, in our amended calculations we have applied the cost of marine insurance to the cost of the lug nuts plus freight.

Comment 12: Respondent argues that the Department must verify value information provided by the surrogate country for factors of production.

DOC Position: We disagree. *See,* DOC Position to Comment 13, Final Determination of Sales at Less Than Fair Value: Chrome-Plated Lug Nuts From the People's Republic of China (56 FR 46153, 46158, September 10, 1991).

Comment 13: Respondent maintains that the Department should apply an inflation factor to a number of the factor values provided by the Consulate to reduce them to the levels existing during the period of investigation.

DOC Position: We agree. Consequently, in our amended calculations we have deflated the values of these factors to reduce them to levels experienced by Pakistani producers of hub nuts during the period of investigation in this case.

Comment 14: Respondent argues that the Department should not use the factory overhead costs and profit rates experienced by Pakistani hub nut producers because the hub nut producers do not export, and because the factory overhead and profit rates differ substantially from those used in similar cases before the Department. Rather, the Department should use amounts based on the actual experience of producers of the same product. As best information available, respondent argues that for factory overhead the Department should use either Lu Dong's actual overhead cost or petitioner's alleged overhead cost, and for profit the Department should use the statutory minimum of eight percent.

DOC Position: We disagree. Section 773(c)(4) of the Act requires the Department to value factors of production in a country that is (A) at a level of economic development comparable to that of the nonmarket economy country, and (B) a significant producer of comparable merchandise. We have determined that Pakistan is at a level of economic development comparable to the PRC (See, January 24, 1991, Memorandum To Susan Kuhbach from David Mueller), and that it is a significant producer of a comparable product, *i.e.*, "hub nuts" (a term used in Pakistan to refer to lug nuts). While the legislative allows the Department to use a country that is an exporter of comparable merchandise, clearly it does not prohibit the Department from using a country with significant production of the merchandise, but which does not export. Therefore, we have continued to value the PRC factors of production in Pakistan.

Comment 15: Respondent contends that the Department should use hydrogen peroxide values as the basis for the cost of brightener.

DOC Position: We disagree. Respondent has not provided any information to support its claim that the Department should change the chemical used to value brightener.

Comment 16: Respondent argues that the discount the Department applied to respondent's sales to its largest customer is not justified.

DOC Position: We disagree. *See,* DOC Position to Comment 3, Final Determination of Sales at Less than Fair Value: Chrome-Plated Lug Nuts From the People's Republic of China (56 FR 46153, 46156, September 10, 1991)

Order

We are directing the U.S. Customs Service to continue to suspend liquidation on all entries from CMEC Jiangsu and all other manufacturers, producers, and exporters of chrome-plated lug nuts in the PRC as defined in the "Scope of Investigation" section of this notice. For all entries that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, the U.S. Customs Service will require a cash deposit equal to the amended estimated amount by which

the foreign market value of the subject merchandise exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. For purposes of requesting a review pursuant to 19 CFR 353.22(a), the anniversary of this order will be September, 1992, the anniversary of the original antidumping duty order. The weighted-average margin is as follows:

Manufacturer/producer/exporter percentage	Deposit rate
CMEC Jiangsu and all other manufacturers, producers, and exporters	42.42

This notice constitutes the amended antidumping duty order with respect to chrome-plated lug nuts from the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, Room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This determination and order are published pursuant to sections 735(d) and 736(a) of the Act, 19 U.S.C. 1673d(d) and 1673e(a).

Dated: April 17, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-9616 Filed 4-23-92; 8:45 am]

BILLING CODE 3510-OS-M

[A-570-506]

Porcelain-on-Steel Cooking Ware From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from an importer, the Department of Commerce has conducted an administrative review of the antidumping duty order on porcelain-on-steel cooking ware from the People's Republic of China. The review covers one manufacturer and its related third-country reseller in Hong Kong, who exports this merchandise to the United States, and the period December 1, 1990 through November 30, 1991. Clover Enamelware Enterprise Ltd., China, and Lucky Enamelware Factory Ltd., Hong Kong, failed to respond to our questionnaire. As a result, we have determined to use the best information available for cash deposit and appraisement purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: April 24, 1992.

FOR FURTHER INFORMATION CONTACT: Shiela E. Forbes or Tom F. Futtner, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-8120/3814.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 43414) an antidumping duty order on porcelain-on-steel cooking ware ("POS cooking ware") from the People's Republic of China ("PRC"). On December 20, 1991, an importer, CGS International, requested in accordance with 19 CFR 353.22(a)(1990) that we conduct an administrative review. We published a notice of initiation of the antidumping duty administrative review on January 23, 1992 (57 FR 2704). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of POS cooking ware, including tea kettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. The merchandise is currently classifiable under HTS item 7323.94.00. HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the shipments of one manufacturer in the PRC, Clover Enamelware Enterprise Ltd., and its related third-country reseller in Hong Kong, Lucky Enamelware Factory Ltd., who exported the POS cooking ware to the United States, and the period December 1, 1990 through November 30, 1991.

Clover Enamelware and Lucky Enamelware failed to respond to our questionnaire. As a result, in accordance with section 776(c) of the Tariff Act, the Department has determined to use the best information available for appraisement and estimated cash deposit purposes. The best information available is the rate published in the antidumping duty order.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist for the period December 1, 1990 through November 30, 1991:

Manufacturer/third-country reseller	Margin (percent)
Clover Enamelware Enterprise Ltd./ Lucky Enamelware Factory Ltd. (Hong Kong)	66.65

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Prehearing briefs and/or written comments may be submitted not later than 30 days after the date of publication. Rebuttal briefs or rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

Upon completion of this administrative review, the Department will issue appraisement instructions concerning all respondents directly to Customs.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed companies will be that established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of this administrative review. The "all other" rate normally represents the highest rate

for any firm with shipments during the period of review, other than firms receiving a rate based entirely on best information available (BIA). Since all the firms in this review have received a BIA rate, the "all other" rate will be the highest non-BIA rate in the most current period reviewed in which such a rate was established.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: April 17, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-9617 Filed 4-23-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council will hold a public meeting of its Reef Fish Management Committee and Reef Fish Advisory Panel on May 4–5, 1992, at the Crown Sterling Suites Hotel, 4400 West Cypress Street, Tampa, FL. The meeting will begin on May 4 from 1 p.m. until 5 p.m., and on May 5 from 8 a.m. to 12 noon. The agenda is as follows:

(1) Discussions will begin with the selection of dates and sites for Red Snapper Limited Entry workshops, (2) Review the Stock Assessment Panel report; (3) Review the summary of the Standing and Special Reef Fish Scientific and Statistical Committee meeting to be held April 28, 1992, in New Orleans, LA.; (4) Review options to extend the 1993 Red Snapper fishing season suggested by staff; and (5) Review the National Marine Fisheries Service Economic Survey for commercial reef fishermen.

For more information contact Steven M. Atran, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL; telephone: (813) 228–2815.

Dated: April 21, 1992.

David S. Crestin,

Deputy Director, Officer of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-9618 Filed 4-23-92; 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.

DATES: Comments must be received on or before May 26, 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 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 does not appear to have a severe economic impact on current contractors for the commodity and service.

3. The action will result in authorizing small entities to furnish the commodity and service 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 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

Mask, Extreme Cold Weather
8415–01–181–1398
Nonprofit Agency: Mohawk Valley Workshop, Utica, New York

Service

Grounds Maintenance, U.S. Postal Service, General Mail Facility, San Jose, California
Nonprofit Agency: VTF Services, Inc., Palo Alto, California.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-9594 Filed 4-23-92; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Contract Administration Working Group of the DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Defense Systems Management College, DOD.

ACTION: Request for public comment.

SUMMARY: The Contract Administration Working Group of the DOD Advisory Panel is reviewing the following laws relating to cost accounting standards.

10 U.S.C. 2410b—Contract inventory accounting systems; standards.
41 U.S.C. 422—Cost accounting standards board.

Request responses to the following questions on each law:

—Is the law serving its intended purpose?

—Has the law created inefficiencies?
—Has it unduly burdened the buyer/seller relationship?
—Is it required for the continuing financial and ethical integrity of defense procurement programs?
—Is it required to protect the best interests of DOD?
—Is the law still relevant?
—Does it overlap, duplicate, or conflict with other laws?
—Does it contain ambiguous terms or provisions which have led to problems in interpretation?
—Should the law apply to commercial products?
—Should it apply to first tier subcontracts, or all subcontracts?

The panel also solicits suggestions of other laws relating to cost accounting standards.

The Contract Administration Working Group will be presenting initial recommendations on the laws relating to cost accounting standards to the panel at its June 18, 1992 meeting. The Working Group would prefer to receive comments on this category prior to that date.

Individuals and organizations wishing to provide information to the Contract Administration Working Group may provide the information to Ms. Diane Sidebottom, Acquisition Law Task Force, at Defense Systems Management College, 8580 Cinderbed Road, suite 800, Newington, VA 22122 (703–355–2665).

Dated: April 20, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–9545 Filed 4–23–92; 8:45 am]

BILLING CODE 3810–1–M

Defense Science Board Task Force on Review of the B–2

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Review of the B–2 will meet in closed session on May 11, 1992, at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Director, Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review the B–2 program with emphasis on the flight test program and reductions of program costs.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. app. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: April 20, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–9543 Filed 4–23–92; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Joint Precision Interdiction

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Joint Precision Interdiction (JPI) will meet in closed session on May 7–8 and June 18–19, 1992 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Director, Defense Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will review acquisition strategies needed for an optimum family of surveillance, reconnaissance, and target acquisition systems, C3I systems and weapon systems required to perform the JPI mission.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. app. II, (1988)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: April 20, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–9544 Filed 4–23–92; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on National Aerospace Plane (NASP)

ACTION: Change in location of advisory committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on National Aerospace Plane (NASP) scheduled for April 16, April 17, May 14–15, and May 21–23, 1992 as published in the Federal Register (Vol. 57, No. 24, Page 4389–4399, Wednesday, February 5, 1992, FR Doc. 92–2729) will be held at the Air Force Plant 42, Palmdale, California; Rocketdyne Corporation, Canoga Park, California; Langley Research Center, Virginia; and, Strategic Analysis, Arlington, Virginia. In all other respects the original notice remains unchanged.

Dated: April 20, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–9546 Filed 4–23–92; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on In-House Microelectronics Research Facilities; Meeting

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on In-House Microelectronics Research Facilities will meet in closed session on May 6–8 and May 28–29, 1992 at Science Applications International Corporation, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will assess the advantages and disadvantages of a single microelectronics facility for the Department of Defense.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: April 20, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–9547 Filed 4–23–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Dates of the Meeting: 18–28 May 1992.

Place: Paris, Bonn, The Hague, London.

Time: 0800–1700 hours daily.

Agenda: The Army Science Board (ASB) Ad Hoc Subgroup on the Comanche

International will travel to Europe for discussions with the European Ministries of Defense and Industry on the potential cooperation for future helicopter programs and issues surrounding the development of the Comanche (RAH–66) and the Tiger helicopter. Classified and proprietary information belonging to private industry will also be discussed. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1) and (4) thereof, and title 5 U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed is so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative information (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92–9485 Filed 4–23–92; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 9–10 June 1992.

Time: 0900–1630 hours.

Place: Operational Test & Evaluation Command, Alexandria, VA and Pentagon, Washington, DC.

Agenda: The Army Science Board's Analysis, Test and Evalution Issue Group will meet to discuss technical and educational requirements for the civilian workforce and the utilization of professional development plans. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92–9486 Filed 4–23–92; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 11–12 May 1992.

Time: 0800–1700 hours daily.

Place: The Pentagon, Washington, D.C.

Agenda: The Land Warfare Combat Identification 1992 Summer Study Panel of the Army Science Board will meet for discussions focused on: Combat Identification, Friend or Foe presented by the Army, Navy and the Air Force. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92–9631 Filed 4–23–92; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER92–445–000, et al.]

Florida Power & Light Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Florida Power & Light Co.

[Docket No. ER92–445–000]

April 14, 1992.

Take notice that Florida Power & Light Company (FPL) on April 8, 1992, tendered for filing the following agreement: "Amendment Number Three to Short Term Agreement to Provide Power and Energy by Florida Power & Light Company to Utilities Commission, City of New Smyrna Beach, Florida." FPL requests that the agreement be made effective May 28, 1992.

Comment date: April 28, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. Kansas Gas and Electric Co.

[Docket No. ER92–446–000]

April 14, 1992.

Take notice that on April 8, 1992, Kansas Gas and Electric Company (KG&E) tendered for filing a proposed change to its Federal Power Commission Electric Service Tariff No. 75. KG&E states that the proposed change is to add a new service schedule for short term peaking power to the Agreement for Interchange of Power and Interconnected Operation dated November 6, 1958 between KG&E and The Empire District Electric Company (EDE).

Copies of the filing were served upon The Empire District Electric Company and the Kansas Corporation Commission.

Comment date: April 28, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. Wisconsin Public Service Co.

[Docket No. ER92–447–000]

April 14, 1992.

Take notice that on April 8, 1992, Wisconsin Public Service Corporation (WPSC) tendered for filing an executed Interchange Agreement with Wisconsin Public Power Incorporated, SYSTEM (WPPI). The Agreement provides for the interchange of limited term power and energy, emergency energy, economy energy, short-term power and energy, maintenance energy, and general purpose energy. WPSC states that its rates for service are negotiated rates at or below its fully allocated costs service ad at or above its variable costs of providing service. WPSC requests the Commission to waive its notice of filing requirements to permit the Agreement to become effective as of March 16, 1992, the date of its execution.

WPSC states that copies of this filing have been posted and have been served on WPPI and the Public Service Commission of Wisconsin.

Comment date: April 28, 1992, in accordance with Standard Paragraph E end of this notice.

4. PacifiCorp

[Docket No. ER92–444–000]

April 14, 1992.

Take notice that PacifiCorp on April 8, 1992, tendered for filing, in accordance with 18 CFR part 35 of the Commission's Rule and Regulations, Revision No. 17 to Exhibits A and B, to the Contract for Interconnections and Transmission Service, Contract No. 14–06–400–2437 (Transmission Agreement), dated May 16, 1962 (PacifiCorp Rate Schedule FPC No. 45) between PacifiCorp and Western Area Power Administration (Western).

Exhibit A specifies the projected maximum integrated demand in kilowatts which PacifiCorp desires to have transmitted to its respective points of delivery by Western. Exhibit B specifies the projected maximum demand in kilowatts which Western desires to have transmitted to its respective points of delivery by PacifiCorp.

PacifiCorp respectfully requests that a waiver of the prior notice requirements of 18 CFR 35.3 be granted pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations and that an effective date of January 1, 1992 be assigned, this date being consistent with the effective date of Exhibits A and B.

Copies of this filing were supplied to WAPA and the Wyoming Public Service Commission.

Comment date: April 28, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. United Illumination Co.

[Docket No. ER92–443–000]

April 14, 1992.

Take notice that on April 8, 1992, United Illuminating Company (UI) tendered for filing a rate schedule for the sale of system capacity and associated energy between UI and Central Vermont Public Service Corporation (Central Vermont). UI states that the rate schedule, entitled the System Power Sales Agreement (Agreement), dated as of March 20, 1992, is an umbrella agreement that permits each part to sell system capacity and associated energy to each other subject to cost based price ceilings. The Agreement also provides that the seller may receive capacity from the purchaser in a given transaction so that the seller can maintain its minimum Monthly System Capability under the new England Power Pool (NEPOOL) Agreement.

Comment date: April 28, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Western Area Power Administration

[Docket No. EF92–5011–000]

April 16, 1992.

Take notice that on March 20, 1992, the Assistant Secretary for Conservation and Renewable Energy of the Department of Energy, by Federal Register notice did approve on a interim basis, to be effective on May 1, 1992, Western Area Power Administration's (Western) Amended Schedule CV–F6, Schedule or Rates for Commercial Firm Power Service, from the Central Valley Project (CVP). In addition, on March 31, 1992 a Supplement to the Amended Schedule CV–F6 was filed.

Amended Schedule CV–F6 will be in effect pending the Federal Energy Regulatory Commission's (FERC) approval of it on a final basis for the period ending April 30, 1993, or until superseded.

Schedule CV–F–6, which was approved under Rate Order No. WAPA–38 by the FERC on October 21, 1988 (Docket No. EF88–5011–000), is being amended to provide a qualifier to the revenue adjustment clause (RAC). The amended rate schedule provides that after the RAC is calculated using the existing methodology, a RAC credit or surcharge will be allocated only after the net revenue impact on CVP repayment has been considered. Amending Schedule CV–F6 does not change the rates, power repayment study, or any other documentation filed with Rate Order No. WAPA–38.

The amended rate schedule is submitted for confirmation and approval on a final basis pursuant to the authority vested in the FERC by Delegation Order No. 0204–108, as amended.

Comment date: April 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. Idaho Power Co.

[Docket No. ER92–403–000]

April 16, 1992.

Take notice that on April 2, 1992, Idaho Power Company (IPC) submitted an amendment to its filing in the above referenced docket with regard to exhibit revisions to the Transmission Services Agreement between Idaho Power Company and Bonneville Power Administration, dated June 6, 1989. The filing was amended to withdraw an exhibit that had previously been filed in a separate docket.

Comment date: April 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. Pacific Gas & Electric Co.

[Docket No. ER92–133–000]

April 16, 1992.

Take notice that on April 8, 1992, Pacific Gas & Electric Company (PG&E) tendered for filing an amendment to its November 13, 1991 filing in this docket.

Comment date: April 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. Iowa Southern Utilities Co.

[Docket No. ER91–559–001]

April 16, 1992.

Take notice that on April 6, 1992 Iowa Southern Utilities Company (Iowa Southern) tendered for filing an amendment to its filing in this docket.

Comment date: April 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Duke Power Co.

[Docket No. ER92–360–000]

April 17, 1992.

Take notice that on April 14, 1992, Duke Power Company (Duke) filed a letter containing information requested by the FERC Staff, and amending Pages 3 of 7 and 6 of 7 of Duke's appendix C to the Restated Interchange Agreement between South Carolina Public Service Authority and Duke Power Company.

Comment date: May 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

11. GEO East Mesa Limited Partnership—GEM 1 and GEM 2 Facilities

[Docket Nos. QF88–202–004 and QF88–203–004]

April 17, 1992.

On April 13, 1992, GEO East Mesa Limited Partnership (Applicant) tendered for filing an amendment to its compliance filing in this docket.

The amendment clarifies certain technical information. No determination has been made that the submittal constitutes a complete filing.

Comment date: April 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

12. Western Massachusetts Electric Co.

[Docket No. ER92–458–000]

April 17, 1992.

Take notice that on April 13, 1992, Western Massachusetts Electric Company (WMECO) tendered for filing as a rate schedule a transmission service, transformation, and distribution agreement between WMECO and Groton Electric Light Department.

WMECO requests that the Commission waive its standard notice and filing regulations to the extent necessary to permit the rate schedule to become effective April 1, 1992.

WMECO states that copies of this rate schedule have been mailed or delivered to each of the parties.

WMECO further states that the filing is in accordance with Section 35 of the Commission's Regulations.

Comment date: May 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

13. PacifiCorp

[Docket No. ER92–459–000]

April 17, 1992.

Take notice that PacifiCorp, on April 14, 1992, tendered the following documents for filing, in accordance with 18 CFR 35.13 of the Commission's Rules and Regulations: (1) Seventh Revised Sheet No. 5D superseding Sixth Revised Sheet No. 5D (Index of Purchasers Executing Service Agreements) under PacifiCorp's FERC Electric Tariff, Original Volume No. 3 (Tariff), (2) Service Agreement between PacifiCorp and Bonneville Power Administration (Bonneville) dated February 14, 1992 under Service Schedule PPL–3 of the Tariff and (3) Service Agreement between PacifiCorp and Southwestern Public Service Company (Southwestern) dated March 3, 1992 under Service Schedule PPL–3 of the Tariff.

The Service Agreements provide for the sale of non-firm power and energy

for resale in accordance with Service Schedule PPL–3 of the Tariff. PacifiCorp's filing herein is provided to add Bonneville and Southwestern to the Index of Purchasers Executing Service Agreements under the Tariff.

PacifiCorp respectfully requests, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that an effective date of February 1, 1992 be assigned to the Service Agreement between PacifiCorp and Bonneville and that an effective date of March 1, 1992 be assigned to the Service Agreement between PacifiCorp and Southwestern, these dates being consistent with the effective dates as shown on the respective Service Agreements. The waiver will have no effect upon purchasers under other rate schedules.

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Public Utility Commission of Texas.

Comment date: May 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

14. Maine Public Service Co.

[Docket No. ER92-313-000]

April 17, 1992.

Take notice that on April 13, 1992, Maine Public Service Company (MPS), in compliance with the Commission's March 18, 1992 order herein, Maine Public Service Company (MPS) tendered for filing the Assignment of Transmission Agreement From Alternative Energy, Inc. To Northeast Empire Limited Partnership #2.

Comment date: May 4, 1992, in accordance with Standard Paragraph E end of this notice.

15. Duke Power Co.

[Docket No. ER91-527-000]

April 17, 1992.

Take notice that on April 14, 1992, Duke Power Company (Duke) filed a letter containing information required by the letter Order of the FERC Staff dated March 31, 1992, and amending page 4 of 5 Duke's appendix B to the Contract for Economy Energy Transactions between Cajun Electric Power Cooperative, Inc. and Duke Power Company.

Comment date: May 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

16. Pacific Gas and Electric Co.

[Docket No. ER92-457-000]

April 17, 1992.

Take notice that on April 13, 1992, Pacific Gas and Electric Company (PG&E) tendered for filing with the Commission a letter agreement amending Rate Schedule FERC No. 79, with the Western Area Power Administration (Western).

The letter agreement clarifies the procedures, formulas and data to be used in calculating rates for capacity and energy sold to Western by PG&E from a Capacity Account and an Energy Account (EA2). Incorporated into the rate formulas in cost recovery for PE&E's Diablo Canyon Nucler Power Plant, on a basis consistent with a rate settlement with PG&E approved by the California Public Utilities Commission (CPUC). Rate mechanisms are also established for sales of capacity or energy to Western after the depletion of the Capacity Account or EA2.

Copies of this filing have been served upon Western and the CPUC.

Comment date: May 4, 1992, in accordance with Standard Paragraph E at the end of this notice.

17. The United Illuminating Co.

[Docket No. ER92-453-000]

April 17, 1992.

Take notice that on April 9, 1992, The United Illuminating Company (UI) tendered for filing a rate schedule for a short-term, coordination transaction involving the exchange of capacity entitlements between Green Mountain Power Corporation (GMP) and UI. The rate schedule corresponds to a letter agreement, dated March 31, 1992, between UI and GMP. The commencement date for service under the agreement is April 1, 1992. UI proposes that the rate schedule commence on this date.

The service provided under the agreement is the provision of capacity entitlements and associated energy from UI's New Haven Harbor Station exchanged for capacity entitlements and associated energy from GMP's Stonybrook Combined Cycle Unit.

Copies of the filings were mailed to GMP.

Coment date: April 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

18. Babcock-Ultrapower Jonesboro

[Docket No. QF85-335-002]

April 17, 1992.

On April 10, 1992, Babcock-Ultrapower Jonesboro of 2030 Main Street, Irvine, California 92714, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to Section 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed small power production facility will be located in Washington County, Maine. The Commission previously certified the facility as a 25 MW small power production facility by order dated June 11, 1985, Babcock-Ultrapower Jonesboro, 31 FERC ¶62,324 (1985), and recertified the facility, based on reorganization of the partnership, by order dated October 6, 1986, Babcock-Ultrapower Jonesboro, 37 FERC ¶62,011 (1986). The instant recertification was filed to reflect subsequent changes in ownership of Partnership interests.

Comment date. May 26, 1992, in accordance with Standard Paragraph E at the end of this notice.

19. El Paso Electric Co.

[Docket No. ER92–58–000]

April 17, 1992.

Take notice that on April 13, 1992, El Paso Electric Company (EPE) filed a new Service Schedule A to a previously filed interconnection agreement between itself and Tucson Electric Power Company (Tucson). EPE and Tucson executed the new Service Schedule A to comply with Staff's suggestions.

EPE requested in its original filing letter of October 7, 1991 that the filing be allowed to become effective June 28, 1991. It continues to request that that filing, including this new version of Service Schedule A be allowed to become effective as of that date.

Comment date: April 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

20. Florida Power Corp.

[Docket No. ER92–436–000]

April 17, 1992.

Take notice that Florida Power Corporation (Florida Power), on April 10, 1992, tendered for filing a three rate schedule sheets omitted from its filing in this docket of April 6, 1992. The sheets reflect data set out at page 79 of the Company's workpapers submitted with the filing.

The Company asks that the filing in this docket be permitted to become effective on June 5, 1992, as requested in the Company's filing letter of April 6, 1992, for the three customers served under the rate schedules for which the additional sheets are submitted. If such effective date is not accorded for those customers, the Company requests that the filing be permitted to become effective on June 9, 1992. The Company asks that the filing in this docket become effective for other customers as of June 5, 1992, as proposed in the filing letter of April 6, 1992.

Comment date: April 30, 1992, in accordance with Standard Paragraph E end of this notice.

21. El Paso Electric Co.

[Docket No. ER92-1-000]

April 17, 1992.

Take notice that on April 13, 1992, El Paso Electric Company (EPE) filed a new Service Schedule A to a previously filed interconnection agreement between itself and Citizens Utilities Company (Citizens) in the above referenced docket. EPE and Citizens executed the new Service Schedule A to comply with Staff's suggestions.

EPE requested in its original filing letter of October 1, 1992 that the filing be allowed to become effective September 3, 1991. It continues to request that that filing, including this new version of Service Schedule A be allowed to become effective as of that date.

Comment date: April 30, 1992, in accordance with Standard Paragraph E end of this notice.

22. Florida Power & Light Co.

[Docket No. ER92-455-000]

April 17, 1992.

Take notice that on April 10, 1992, Florida Power & Light Company (FPL) tendered for filing the following agreement: Amendment Number One to the Interconnection Agreement Among Florida Power & Light Company, United States Sugar Corporation and City of Clewiston. FPL requests that the agreement be made effective January 1, 1990.

FPL states that copies of this filing have been served upon the City of Clewiston, Florida, the United States Sugar Corporation and the Florida Public Service Commission.

Comment date: April 30, 1992, in accordance with Standard Paragraph, E at the end of this notice.

23. Florida Power & Light Co.

[Docket No. ER92-454-000]

April 17, 1992.

Take notice that Florida Power & Light Company (FPL) on April 10, 1992, tendered for filing an amendment entitled "Amendment Number Three to Agreement for Full Requirements Electric Service by Florida Power & Light Company to Seminole Electric Cooperative, Inc." FPL requests that the amendment be made effective October 29, 1990.

Comment date: April 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

24. AES WR Limited Partnership

[Docket No. QF92-123-000]

April 17, 1992.

On April 13, 1992, AES WR Limited Partnership (Applicant), of 1001 N. 19th Street, Suite 2000, Arlington, Virginia 22209, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Allegany County, Maryland. The facility will consist of circulating fluidized bed boilers and an extraction/condensing steam turbine generator. Thermal energy recovered from the facility will be sold to an on-site CO_2 facility for recovery process use. The primary energy source will be coal. The maximum net electric power production capacity of the facility will be approximately 180 MW. Installation of the facility will begin in January 1993.

Comment date: May 26, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-9553 Filed 4-23-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST92-2084-000 through ST92-2669-000]

Arkla Energy Resources; Self-Implementing Transactions

April 16, 1992.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to part 284 of the Commission's regulations, sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA) and section 5 of the Outer Continental Shelf Lands Act.[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "part 284 subpart" column in the following table indicates the type of transaction.

A "B" indicates transportation by an interstate pipeline on behalf of an intrastate pipeline or a local distribution company pursuant to § 284.102 of the Commission's regulations and section 311(a)(1) of the NGPA.

A "C" indicates transportation by an intrastate pipeline on behalf of an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.122 of the Commission's regulations and section 311(a)(2) of the NGPA.

A "D" indicates a sale by an intrastate pipeline to an interstate pipeline or a local distribution company served by an interstate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an intrastate pipeline to any interstate pipeline or local distribution company pursuant to § 284.163 of the Commission's regulations and section 312 of the NGPA.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.222 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G-S" indicates transportation by interstate pipelines on behalf of shippers other than interstate pipelines pursuant to Section 284.223 and a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G-LT" or "G-LS" indicates transportation, sales or assignments by a local distribution company on behalf of or to an interstate pipeline or local distribution company pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "G-HT" or "G-HS" indicates transportation, sales or assignments by

[1] Notice of a transaction does not constitute a determination that the terms and conditions of the proposed service will be approved or that the noticed filing is in compliance with the Commission's regulations.

a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.224 of the Commission's regulations.

A "K" indicates transportation of natural gas on the Outer Continental Shelf by an interstate pipeline on behalf of another interstate pipeline pursuant to § 284.303 of the Commission's regulations.

A "K–S" indicates transportation of natural gas on the Outer Continental Shelf by an intrastate pipeline on behalf of shippers other than interstate pipelines pursuant to § 284.303 of the commission's regulations.

Linwood A. Watson, Jr.,
Acting Secretary.

Docket number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST92-2084	Arkla Energy Resources	Entrade Corp	02-03-92	G-S	150,000	N	I	01-01-92	Indef.
ST92-2085	Tennessee Gas Pipeline Co.	NGC Transportation, Inc	02-03-92	G-S	30,000	N	F	01-03-92	Indef.
ST92-2086	Tennessee Gas Pipeline Co.	Polaris Pipeline Corp	02-03-92	G-S	150,000	N	I	01-16-92	Indef.
ST92-2087	Florida Gas Transmission Co.	Southern Natural Gas Co	02-03-92	G-S	150,000	N	I	01-10-92	Indef.
ST92-2088	ONG Transmission Co	United Gas Pipeline Co	02-03-92	C	75,000	N	I	12-01-91	Indef.
ST92-2089	ONG Transmission Co	Caprock Pipeline Co	02-03-92	C	40,000	N	I	12-01-91	Indef.
ST92-2091	Montana Power Co	Colorado Interstate Gas Co	02-03-92	C	20,000	N	I	01-01-92	10-31-92.
ST92-2092	Stingray Pipeline Co	Continental Natural Gas, Inc.	02-03-92	K-S	50,000	N	I	01-01-92	Indef.
ST92-2093	Gulf Energy Pipeline Co	Tennessee Gas Pipeline Co.	02-03-92	C	10,000	N	I	12-01-91	Indef.
ST92-2094	Columbia Gas Transmission Corp.	Volunteer Energy Corp	02-03-92	G-S	50,000	N	I	01-24-92	Indef.
ST92-2095	Columbia Gas Transmission Corp.	Cenestia Energy, Inc	02-03-92	G-S	2,000	N	I	01-02-92	Indef.
ST92-2096	Columbia Gas Transmission Corp.	Carlton Oil Corp	02-03-92	G-S	130	N	I	01-10-92	Indef.
ST92-2097	Columbia Gulf Transmission Co.	Adobe Gas Marketing Co	02-03-92	G-S	100,000	N	I	01-18-92	Indef.
ST92-2098	Columbia Gulf Transmission Co.	Enserch Gas Co	02-03-92	G-S	200,000	N	I	01-17-92	Indef.
ST92-2099	Valero Transmission, L.P	Texas Eastern Gas Transmission Corp.	02-03-92	C	1,500	N	I	01-06-92	Indef.
ST92-2100	Transcontinental Gas P/L Corp.	Elizabethtown Gas Co., et al.	02-03-92	B	900,000	N	I	01-24-92	Indef.
ST92-2101	Transcontinental Gas P/L Corp.	Tejas Powr Corp	02-03-92	G-S	500,000	N	I	01-23-92	Indef.
ST92-2102	Transcontinental Gas P/L Corp.	Texas-Ohio Gas, Inc	02-03-92	B	96,000	N	I	06-15-90	10-09-90.
ST92-2103	Northern Natural Gas Co	Koch Hydrocarbon Co	02-03-92	G-S	10,000	N	F/I	01-11-92	01-10-12
ST92-2104	Tennessee Gas Pipeline Co.	Conerstone Production Corp.	02-03-92	G-S	150,000	N	I	01-15-92	Indef.
ST92-2105	Tennessee Gas Pipeline Co.	GLI, Inc	02-03-92	G-S	3,500	N	I	01-23-92	Indef.
ST92-2106	Trunkline Gas Co	NGC Transportation Inc	02-05-92	G-S	50,000	N	I	01-24-92	Indef.
ST92-2107	Trunkline Gas Co	Aquila Energy Marketing Corp.	02-05-92	G-S	100,000	N	I	01-25-92	Indef.
ST92-2108	Trunkline Gas Co	Bishop Pipeline Corp	02-05-92	G-S	25,000	N	I	01-10-92	Indef.
ST92-2109	Trunkline Gas Co	Enron Gas Marketing, Inc	02-05-92	G-S	150,000	N	I	01-11-92	Indef.
ST92-2110	Trunkline Gas Co	Unigas Corp	02-05-92	G-S	30,000	N	I	01-04-92	Indef.
ST92-2111	United Gas Pipe Line Co	Shell Gas Trading Co	02-05-92	G-S	10,480	N	I	01-22-92	05-21-92.
ST92-2112	United Gas Pipe Line Co	Domino Sugar Corp	02-05-92	G-S	20,960	N	I	01-01-92	05-01-91.
ST92-2113	United Gas Pipe Line Co	Delhi Gas Pipeline Corp	02-05-92	B	209,600	N	I	11-01-91	Indef.
ST92-2114	Columbia Gulf Transmission Co.	Entrade Corp	02-05-92	G-S	75,000	N	I	01-17-92	Indef.
ST92-2115	Transcontinental Gas P/L Corp.	Philadelphia Gas Works	02-05-92	B	159,625	Y	F	01-01-92	03-31-05.
ST92-2116	Transcontinental Gas P/L Corp.	Philadelphia Electric Co	02-05-92	B	149,061	Y	F	02-01-92	10-31-04.
ST92-2117	Transcontinental Gas P/L Corp.	Piedmont Natural Gas Co., Inc.	02-05-92	B	205,200	Y	F	02-01-92	10-31-05.
ST92-2118	Transcontinental Gas P/L Corp.	United Cities Gas Co	02-05-92	B	6,700	Y	F	02-01-92	03-31-98.
ST92-2119	Transcontinental Gas P/L Corp.	Blacksburg Natural Gas System.	02-05-92	B	2,030	N	F	02-01-92	03-31-05.
ST92-2120	Transcontinental Gas P/L Corp.	City of Toccoa	02-05-92	B	5,000	N	F	02-01-92	03-31-06.
ST92-2121	Transcontinental Gas P/L Corp.	South Carolina Pipeline Corp.	02-05-92	B	29,300	N	F	02-01-92	03-31-04.
ST92-2122	Transcontinental Gas P/L Corp.	South Jersey Gas Co	02-05-92	B	124,300	N	F	02-01-92	02-28-10.
ST92-2123	Transcontinental Gas P/L Corp.	Piedmont Natural Gas Co., Inc.	02-05-92	B	144,500	N	I	12-14-88	Indef.
ST92-2124	Transcontinental Gas P/L Corp.	Public Service Co. of NC, Inc.	02-05-92	B	158,600	N	F	02-01-92	10-31-04.
ST92-2125	Transcontinental Gas P/L Corp.	City of Winder	02-05-92	B	5,000	N	F	02-01-92	03-31-06.
ST92-2126	Transcontinental Gas P/L Corp.	East Central Alabama Gas District.	02-05-92	B	2,790	N	F	02-01-92	12-31-98.
ST92-2127	Transcontinental Gas P/L Corp.	Eastern Shore Natural Gas Co.	02-05-92	B	22,900	N	F	02-01-92	03-31-05.

Docket number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST92-2128	Transcontinental Gas P/L Corp.	Brooklyn Union Gas Co	02-05-92	B	237,638	N	F	02-01-92	03-31-05.
ST92-2129	Transcontinental Gas P/L Corp.	City of Danville	02-05-92	B	26,000	N	F	02-01-92	04-01-99.
ST92-2130	Transcontinental Gas P/L Corp.	City of Shelby	02-05-92	B	11,600	A	F	02-01-92	03-31-00.
ST92-2131	Transcontinental Gas P/L Corp.	Pennsylvania Gas and Water Co.	02-05-92	B	46,900	N	F	02-01-92	10-31-04.
ST92-2132	Transcontinental Gas P/L Corp.	City of Bessemer City	02-05-92	B	1,900	N	F	02-01-92	03-05-99.
ST92-2133	United Gas Pipeline Co	Amerada Hess Corp	02-06-92	G-S	86,460	N	I	01-21-92	05-21-92.
ST92-2134	United Gas Pipeline Co	Olympic Production Co	02-06-92	G-S	500	N	I	01-24-92	05-23-92.
ST92-2135	United Gas Pipeline Co	Stellar Gas Co	02-06-92	G-S	524,000	N	I	01-24-92	05-23-92.
ST92-2136	United Gas Pipeline Co	NGC Transportation, Inc	02-06-92	G-S	157,200	N	I	01-27-92	05-26-92.
ST92-2137	United Gas Pipeline Co	Shell Oil Co	02-06-92	G-S	62,880	N	I	01-21-92	05-20-92.
ST92-2138	United Gas Pipeline Co	Enserch Gas Co	02-06-92	G-S	209,600	N	I	11-13-91	03-12-92.
ST92-2139	United Gas Pipeline Co	Vesta Energy Co	02-06-92	G-S	824	N	I	01-28-92	05-27-92.
ST92-2140	United Gas Pipeline Co	Columbia Gas Transmission Corp.	02-06-92	G-S	104,800	N	I	01-01-91	05-01-91.
ST92-2141	United Gas Pipeline Co	Bridgegas U.S.A., Inc	02-06-92	G-S	50,000	N	I	10-02-91	01-30-92.
ST92-2142	United Gas Pipeline Co	Eagle Natural Gas Co	02-06-92	G-S	26,200	N	I	01-24-92	05-23-92.
ST92-2143	United Gas Pipeline Co	Endevco Oil & Gas Co	02-06-92	G-S	26,200	N	I	01-21-92	05-20-92.
ST92-2144	United Gas Pipeline Co	Shell Gas Trading Co	02-06-92	G-S	209,600	N	I	01-21-92	05-20-92.
ST92-2145	United Gas Pipeline Co	Excel Gas Marketing, Inc	02-06-92	G-S	102,704	N	I	01-22-92	05-21-92.
ST92-2146	Northern Gas Co	K N Energy, Inc	02-06-92	G-HT	80,000	Y	I	12-17-91	011-14-92.
ST92-2147	Lone Star Gas Co	Northern Natural Gas Co	02-06-92	C	42,000	N	I	01-08-92	Indef.
ST92-2148	Valero Transmission, L.P	Valero Transmission, L.P	02-06-92	C	2,500	Y	I	01-09-92	Indef.
ST92-2149	Valero Transmission, L.P	Tennessee Gas Pipeline Co	02-06-92	C	10,000	N	I	01-07-92	Indef.
ST92-2150	Trunkline Gas Co	Conoco, Inc	02-06-92	G-S	50,000	N	I	01-22-92	Indef.
ST92-2151	Trunkline Gas Co	Gastrak Corp	02-06-92	G-S	500	N	I	01-27-92	Indef.
ST92-2152	Questar Pipeline Co	Universal Resources Corp	02-06-92	G-S	350,000	N	I	01-29-92	Indef.
ST92-2153	Valero Transmission, L.P	Tennessee Gas Pipeline Co	02-06-92	C	3,400	N	I	01-07-92	Indef.
ST92-2154	Williston Basin Inter. P/L Co.	Prairielands Energy Marketing, Inc.	02-06-92	G-S	118,500	A	I	01-07-92	10-14-92.
ST92-2155	Colorado Interstate Gas Co	Williams Gas Marketing Co	02-06-92	G-S	50,000	N	I	01-21-92	10-14-92.
ST92-2156	Michigan Gas Storage Co	Consumers Power Co	02-06-92	B	100,000	Y	I	12-01-91	Indef.
ST92-2157	Consumers Power Co	Triumph Gas Marketing Co	02-06-92	G-HT	100,000	Y	I	12-01-91	Indef.
ST92-2158	Williams Natural Gas Co	Mobil Natural Gas, Inc	02-06-92	G-S	10,000	N	I	01-01-92	03-01-92.
ST92-2159	Tennessee Gas Pipeline Co	Scana Hydrocarbons, Inc	02-07-92	G-S	15,000	N	I	01-22-92	Indef.
ST92-2160	Tennessee Gas Pipeline Co	Yuma Gas Corp	02-07-92	G-S	125,000	N	I	01-11-92	Indef.
ST92-2161	Transtexas Pipeline	El Paso Natural Gas Co	02-07-92	C	8,000	N	I	01-11-92	Indef.
ST92-2162	Valero Transmission, L.P	Florida Gas Transmission Co.	02-07-92	C	3,000	N	I	01-09-92	Indef.
ST92-2163	Valero Transmission, L.P	Florida Gas Transmission Co.	02-07-92	C	3,500	N	I	01-09-92	Indef.
ST92-2164	Valero Transmission, L.P	Northern Natural Gas Co	02-07-92	C	1,000	N	I	01-14-92	Indef.
ST92-2165	Valero Transmission, L.P	Northern Natural Gas Co	02-07-92	C	4,500	N	I	01-14-92	Indef.
ST92-2166	Valero Transmission, L.P	El Paso Natural Gas Co	02-07-92	C	10,000	Y	I	01-18-92	Indef.
ST92-2167	Valero Transmission, L.P	El Paso Natural Gas Co	02-07-92	C	10,000	N	I	01-18-92	Indef.
ST92-2168	Transwestern Pipeline Co	Sunrise Energy Co	02-07-92	G-S	50,000	N	I	01-10-92	Indef.
ST92-2169	Stingray Pipeline Co	Tejas Hydrocarbon Co	02-07-92	K-S	100,000	N	I	02-10-92	Indef.
ST92-2170	Tennessee Gas Pipeline Co	Greatlakes Chemical Corp	02-07-92	G-S	600	N	I	02-23-92	Indef.
ST92-2171	Columbia Gas Transmission Corp.	Gas Transport, Inc	02-07-92	G-S	20,000	N	I	01-10-92	Indef.
ST92-2172	Transcontinental Gas P/L Corp.	Superior Natural Gas Corp	02-07-92	G-S	100,000	N	I	01-10-92	Indef.
ST92-2173	High Island Orrshore System.	LL & E Gas Marketing, Inc	02-07-92	K-S	50,000	N	I	01-14-92	12-01-92.
ST92-2174	United Texas Transmission Co.	Neches Gas Distribution Co	02-10-92	C	30,000	N	I	01-01-92	Indef.
ST92-2175	United Texas Transmission Co.	Neches Gas Distribution Co	02-10-92	C	60,000	Y	I	11-02-91	Indef.
ST92-2176	Red River Pipeline	Arkla Energy Resources	02-10-92	C	175,000	N	I	01-24-92	Indef.
ST92-2177	Tennessee Gas Pipeline Co	National Fuel Gas Dist. Corp.	02-10-92	B	150	N	I	01-25-92	Indef.
ST92-2178	Tennessee Gas Pipeline Co	Channel Industries Gas Co	02-10-92	B	1,000,000	Y	I	09-25-91	Indef.
ST92-2179	CNG Transmission Corp	Access Energy Corp	02-20-92	G-S	150,000	N	I	01-05-92	Indef.
ST92-2180	CNG Transmission Corp	O & R Energy, Inc	02-10-92	G-S	100,000	N	I	01-06-92	Indef.
ST92-2181	CNG Transmission Corp	Access Energy Corp	02-10-92	G-S	100,000	N	I	01-04-92	Indef.
ST92-2182	CNG Transmission Corp	New York State Elect. & Gas Corp.	02-10-92	G-S	6,000	N	I	12-01-91	Indef.
ST92-2183	CNG Transmission Corp	Virginia Natural Gas	02-10-92	G-S	30,000	N	I	01-03-92	Indef.
ST92-2184	CNG Transmission Corp	Doswell Limited Partnership	02-10-92	G-S	150,000	N	I	01-13-92	Indef.
ST92-2185	CNG Transmission Corp	SCM Chemicals, Inc	02-10-92	G-S	9,500	N	I	01-01-92	Indef.
ST92-2186	Sabine Pipeline Co	Natural Gas P/L Co of America.	02-11-92	G	5,300	N	I	09-01-91	Indef.
ST92-2187	Sabine Pipeline Co	NGC Transportation Inc	02-11-92	G-S	250,000	N	I	09-01-91	Indef.
ST92-2188	Sabine Pipeline Co	Transco Energy Marketing Co.	02-11-92	G-S	300,000	N	I	09-01-91	Indef.
ST92-2189	Sabine Pipeline Co	MG Natural Gas Corp	02-11-92	G-S	75,000	N	I	09-01-91	Indef.

Docket number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST92-2190	Sabine Pipeline Co	Panhandle Trading Co	02-11-92	G-S	75,000	N	I	09-01-91	Indef.
ST92-2191	Sabine Pipeline Co	Aquila Energy Marketing Corp.	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2192	Sabine Pipeline Co	Oryx Gas Marketing L.P	02-11-92	G-S	20,000	N	I	09-01-91	Indef.
ST92-2193	Sabine Pipeline Co	Access Energy Corp	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2194	Sabine Pipeline Co	Enron Gas Marketing Inc	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2195	Sabine Pipeline Co	Energy Marketing Exchange, Inc.	02-11-92	G-S	20,000	N	I	09-01-91	Indef.
ST92-2196	Sabine Pipeline Co	Arco Oil and Gas Co	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2197	Sabine Pipeline Co	Tejas Power Co	02-11-92	G-S	50,000	N	I	09-01-91	Indef.
ST92-2198	Sabine Pipeline Co	Centran Corp	02-11-92	G-S	10,000	N	I	09-01-91	Indef.
ST92-2199	Sabine Pipeline Co	Anadarko Trading Co	02-11-92	G-S	80,000	N	I	09-01-91	Indef.
ST92-2200	Sabine Pipeline Co	Hadson Gas Systems, Inc	02-11-92	G-S	35,000	N	I	09-01-91	Indef.
ST92-2201	Sabine Pipeline Co	Coastal Gas Marketing Co	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2202	Sabine Pipeline Co	Texaco Gas Marketing Inc	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2203	Sabine Pipeline Co	Mobil Natural Gas Inc	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2204	Sabine Pipeline Co	Eastex Hydrocarbons, Inc	02-11-92	G-S	50,000	N	I	09-01-91	Indef.
ST92-2205	Sabine Pipeline Co	Citizens Gas Supply Corp	02-11-92	G-S	50,000	N	I	09-01-91	Indef.
ST92-2206	Sabine Pipeline Co	Excel Gas Marketing, Inc	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2207	Sabine Pipeline Co	Ledco Inc	02-11-92	G-S	50,000	N	I	09-01-91	Indef.
ST92-2208	Sabine Pipeline Co	Cornerstone Production Corp.	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2209	Sabine Pipeline Co	Amoco Energy Trading Corp.	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2210	Sabine Pipeline Co	Brooklyn Interstate Nat. Gas Corp.	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2211	Sabine Pipeline Co	Calcasieu Gas Gathering System.	02-11-92	G-S	220,000	N	I	09-01-91	Indef.
ST92-2212	Sabine Pipeline Co	Mobil Natural Gas Inc	02-11-92	G-S	200,000	N	I	09-01-91	Indef.
ST92-2213	Sabine Pipeline Co	Mobil Natural Gas Inc	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2214	Sabine Pipeline Co	Kerr McGee Corp	02-11-92	G-S	40,000	N	I	09-01-91	Indef.
ST92-2215	Sabine Pipeline Co	Philbro Energy, Inc	02-11-92	G-S	500,000	N	I	09-01-91	Indef.
ST92-2216	Sabine Pipeline Co	Chevron U.S.A., Inc	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2217	Sabine Pipeline Co	Eagle Natural Gas Co	02-11-92	G-S	40,000	N	I	09-01-91	Indef.
ST92-2218	Sabine Pipeline Co	Superior Natural Gas Corp	02-11-92	G-S	50,000	N	I	09-01-91	Indef.
ST92-2219	Sabine Pipeline Co	Kogas, Inc	02-11-92	G-S	70,000	N	I	09-01-91	Indef.
ST92-2220	Sabine Pipeline Co	Catex Energy Inc	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2221	Sabine Pipeline Co	Reliance Gas Marketing Co	02-11-92	G-S	50,000	N	I	09-01-91	Indef.
ST92-2222	Sabine Pipeline Co	Bridgeline Gas Distribution Co.	02-11-92	G-S	65,000	N	I	09-01-91	Indef.
ST92-2223	Sabine Pipeline Co	Citrus Marketing, Inc	02-11-92	G-S	5,000	N	I	09-01-91	Indef.
ST92-2224	Sabine Pipeline Co	Texarkoma Transportation Co.	02-11-92	G-S	40,000	N	I	09-01-91	Indef.
ST92-2225	Sabine Pipeline Co	Amerada Hess Corp	02-11-92	G-S	200,000	N	I	09-01-91	Indef.
ST92-2226	Sabine Pipeline Co	Energas Corp	02-11-92	G-S	30,000	N	I	09-01-91	Indef.
ST92-2227	Sabine Pipeline Co	O & R Energy, Inc	02-11-92	G-S	50,000	N	I	09-01-91	Indef.
ST92-2228	Sabine Pipeline Co	Arcadian Corp	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2229	Sabine Pipeline Co	Tuscaloosa Pipeline Co	02-11-92	G-S	35,000	N	I	09-01-91	Indef.
ST92-2230	Sabine Pipeline Co	V.H.C. Gas Systems, L.P	02-11-92	G-S	200,000	N	I	09-01-91	Indef.
ST92-2231	Sabine Pipeline Co	Morgan Stanley Capital Group, Inc.	02-11-92	G-S	250,000	N	I	09-01-91	Indef.
ST92-2232	Sabine Pipeline Co	Union Pacific Fuels, Inc	02-11-92	G-S	80,000	N	I	09-01-91	Indef.
ST92-2233	Sabine Pipeline Co	Gasmark, Inc	02-11-92	G-S	30,000	N	I	09-01-91	Indef.
ST92-2234	Sabine Pipeline Co	Delhi Gas Pipeline Corp	02-11-92	G-S	50,000	N	I	09-01-91	Indef.
ST92-2235	Sabine Pipeline Co	Citrus Marketing, Inc	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2236	Sabine Pipeline Co	BP Gas Inc	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2237	Sabine Pipeline Co	Nortech Energy Corp	02-11-92	G-S	50,000	N	I	09-01-91	Indef.
ST92-2238	Sabine Pipeline Co	Olympic Pipeline Co	02-11-92	G-S	20,000	N	I	09-01-91	Indef.
ST92-2239	Sabine Pipeline Co	Continental Natural Gas, Inc.	02-11-92	G-S	50,000	N	I	09-01-91	Indef.
ST92-2240	Sabine Pipeline Co	Louis Dreyfus Energy Corp	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2241	Sabine Pipeline Co	Polaris Pipeline Corp	02-11-92	G-S	25,000	N	I	09-01-91	Indef.
ST92-2242	Sabine Pipeline Co	Equitable Resources Marketing Co.	02-11-92	G-S	100,000	N	I	09-01-91	Indef.
ST92-2243	Sabine Pipeline Co	Coast Energy Group, Inc	02-11-92	G-S	45,000	N	I	09-01-91	Indef.
ST92-2244	Transcontinental Gas P/L Corp.	Energy Marketing Exchange, Inc.	02-10-92	G-S	1,450,000	N	I	12-19-91	Indef.
ST92-2245	Green Canyon Pipeline Co	Coast Energy Group, Inc	02-11-92	G-S	35,000	N	I	11-01-91	Indef.
ST92-2246	Valero Transmission, L.P	Northern Natural Gas Co	02-10-92	C	16,600	N	I	01-12-92	Indef.
ST92-2247	Valero Transmission, L.P	Transcontinental Gas P/L Corp.	02-10-92	C	10,000	N	I	01-12-92	Indef.
ST92-2248	Enogex Inc	Northern Natural Gas Co	02-10-92	C	30,000	N	I	01-16-92	Indef.
ST92-2249	Enogex Inc	Northern Natural Gas Co	02-10-92	C	30,000	N	I	01-10-92	Indef.
ST92-2250	Enogex Inc	Arkla Energy Resources	02-10-92	C	30,000	N	I	01-10-92	Indef.
ST92-2251	Enogex Inc	Northern Natural Gas Co	02-10-92	C	50,000	N	I	01-12-92	Indef.
ST92-2252	Enogex Inc	Phillips Gas Pipeline Co	02-10-92	C	10,000	N	I	01-07-92	Indef.
ST92-2253	East Tennessee Natural Gas Co.	TXG Gas Marketing Co	02-10-92	G-S	100,000	N	I	01-22-92	Indef.
ST92-2254	East Tennessee Natural Gas Co.	City of Fayetteville Gas System.	02-10-92	G-S	16,500	N	I	01-22-92	Indef.

Docket number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST92-2255	East Tennessee Natural Gas Co.	Sevier County Utility District	02-10-92	G-S	15,000	N	I	01-22-92	Indef.
ST92-2256	East Tennessee Natural Gas Co.	Enron Gas Marketing, Inc	02-10-92	G-S	250,000	N	I	01-22-92	Indef.
ST92-2257	East Tennessee Natural Gas Co.	City of Pulaski Natural Gas Dept.	02-10-92	G-S	7,000	N	I	01-22-92	Indef.
ST92-2258	East Tennessee Natural Gas Co.	Stellar Gas Co	02-10-92	G-S	100,000	N	I	01-22-92	Indef.
ST92-2259	East Tennessee Natural Gas Co.	Aquila Energy Marketing Corp.	02-10-92	G-S	150,000	N	I	01-22-92	Indef.
ST92-2260	East Tennessee Natural Gas Co.	Energy Development Corp	02-10-92	G-S	100,000	N	I	01-22-92	Indef.
ST92-2261	East Tennessee Natural Gas Co.	Lewisburg Gas Dept	02-10-92	G-S	15,060	N	I	01-22-92	Indef.
ST92-2262	East Tennessee Natural Gas Co.	Eaton Corp	02-10-92	G-S	1,000	N	I	01-22-92	Indef.
ST92-2263	Trunkline Gas Co	Oryx Gas Marketing L.P	02-11-92	G-S	125,000	N	I	01-12-92	Indef.
ST92-2264	Panhandle Eastern P/L Co	Mobil Natural Gas, Inc	02-11-92	G-S	100,000	N	I	01-18-92	Indef.
ST92-2265	Panhandle Eastern P/L Co	North American Resources Co.	02-11-92	G-S	20,000	N	I	01-16-92	Indef.
ST92-2266	Panhandle Eastern P/L Co	Access Energy Corp	02-11-92	G-S	100,000	N	I	01-17-92	Indef.
ST92-2267	Panhandle Eastern P/L Co	Eastex Hydrocarbons, Inc	02-11-92	G-S	100,000	N	I	01-15-92	Indef.
ST92-2268	Northwest Pipeline Corp	Canadian Hydrocarbons Marketing.	02-11-92	G-S	22,000	N	I	01-21-92	Indef.
ST92-2269	Northwest Pipeline Corp	Northern Natural Gas Co	02-11-92	B	10,000	N	I	01-14-92	Indef.
ST92-2270	Questar Pipeline Co	Fuel Resources Development.	02-11-92	G-S	400	N	I	01-31-92	12-31-92
ST92-2271	K N Energy, Inc	NGC Transportation, Inc	02-11-92	G-S	4,032	N	F/I	01-01-92	12-01-92
ST92-2272	K N Energy, Inc	Cibola Corp	02-11-92	G-S	3,400	N	F/I	01-01-92	2-29-92
ST92-2273	Viking Gas Transmission Co.	Northern States Power Co	02-11-92	B	15,000	N	F	01-15-92	Indef.
ST92-2274	Tennessee Gas Pipeline Co	Alabama-Tennessee Natural Gas Co.	02-11-92	B	10,000	N	F	01-16-92	Indef.
ST92-2275	Tennessee Gas Pipeline Co	Wes Cana Energy Marketing, Inc.	02-11-92	G-S	100,000	N	I	01-16-92	Indef.
ST92-2276	Tennessee Gas Pipeline Co	Quivira Gas Co	02-11-92	G-S	204,000	N	I	01-14-92	Indef.
ST92-2277	Transcontinental Gas P/L Corp.	Pennsylvania Gas & Water Co.	02-11-92	B	$75,000	N	I	12-06-88	Indef.
ST92-2278	Transcontinental Gas P/L Corp.	Public Works, City of Greet	02-11-92	B	5,000	N	F	02-01-92	03-31-00.
ST92-2279	Transcontinental Gas P/L Corp.	City of Laurens	02-11-92	B	7,840	N	F	02-01-92	03-31-00.
ST92-2280	Transcontinental Gas P/L Corp.	City of Lexington	02-11-92	B	8,900	N	F	02-01-92	03-31-05.
ST92-2281	Transcontinental Gas P/L Corp.	Fountain Inn Natural Gas Co.	02-11-92	B	1,510	A	F	02-01-92	03-31-05.
ST92-2282	Transcontinental Gas P/L Corp.	Bishop Pipeline Corp	02-11-92	B	15,000	N	I	10-26-88	Indef.
ST92-2283	Transcontinental Gas P/L Corp.	North Carolina Natural Gas Corp.	02-11-92	B	141,000	A	F	02-01-92	03-31-00.
ST92-2284	Transcontinental Gas P/L Corp.	North Carolina Gas Service	02-11-92	B	32,292	N	I	03-05-90	Indef.
ST92-2285	Transcontinental Gas P/L Corp.	Energy Marketing Exchange, Inc.	02-11-92	B	50,000	N	I	05-19-88	Indef.
ST92-2286	Transcontinental Gas P/L Corp.	Long Island Lighting Co	02-11-92	B	2,525,000	N	I	12-18-91	Indef.
ST92-2287	Exxon Gas System, Inc	Natural Gas P/L of America	02-12-92	C	100,000	N	I	12-01-91	Indef.
ST92-2288	K N Energy, Inc	American Central Gas Cos., Inc.	02-12-92	G-S	100,000	N	I	12-12-91	Indef.
ST92-2289	Tennessee Gas Pipeline Co	Mobil Natural Gas, Inc	02-12-92	G-S	100,000	N	I	01-10-92	Indef.
ST92-2290	Midwestern Gas Transmission Co.	Clinton Gas Transmission, Inc.	02-12-92	G-S	10,000	N	I	02-04-92	Indef.
ST92-2291	Delhi Gas Pipeline Corp	Natural Gas P/L Co. of America.	02-12-92	C	20,000	N	I	01-23-92	Indef.
ST92-2292	Delhi Gas Pipeline Corp	Arkla Energy Resources	02-12-92	C	20,000	N	I	02-03-92	Indef.
ST92-2293	Natural Gas P/L Co. of America.	Midcon Marketing Corp	02-12-92	G-S	200,000	N	I	01-17-92	Indef.
ST92-2294	Natural Gas P/L Co. of America.	Arco Natural Gas Marketing, Inc.	02-12-92	G-S	200,000	N	I	02-03-92	Indef.
ST92-2295	Natural Gas P/L Co. of America.	Bridgegas U.S.A., Inc	02-12-92	G-S	200,000	N	I	01-28-92	Indef.
ST92-2296	Natural Gas P/L Co. of America.	Bridgegas U.S.A., Inc	02-12-92	G-S	200,000	N	I	01-15-92	Indef.
ST92-2297	Natural Gas P/L Co. of America.	North Canadian Marketing Corp.	02-12-92	G-S	100,000	N	I	01-22-92	Indef.
ST92-2298	Natural Gas P/L Co. of America.	North Canadian Marketing Corp.	02-12-92	G-S	100,000	N	I	01-17-92	Indef.
ST92-2299	Trunkline Gas Co	BHP Petroleum (Americas) Inc.	02-12-92	G-S	1,000	N	I	02-01-92	Indef.

Docket number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST92-2300	Trunkline Gas Co	Aquila Energy Resources Corp.	02-12-92	G-S	100,000	N	I	02-01-92	Indef.
ST92-2301	Trunkline Gas Co	Neste Oy	02-12-92	G-S	50,000	N	I	02-02-92	Indef.
ST92-2302	Trunkline Gas Co	Energy Marketing Exchange, Inc.	02-12-92	G-S	50,000	N	I	02-01-92	Indef.
ST92-2303	Trunkline Gas Co	Vesta Energy Co	02-12-92	G-S	50,000	N	I	02-01-92	Indef.
ST92-2304	Trunkline Gas Co	NGC Transportation, Inc	02-12-92	G-S	75,000	N	I	02-02-92	Indef.
ST92-2305	Trunkline Gas Co	CNG Producing Co	02-12-92	G-S	20,000	N	I	01-29-92	Indef.
ST92-2306	Trunkline Gas Co	Enserch Gas Co	02-12-92	G-S	50,000	N	I	02-01-92	Indef.
ST92-2307	Trunkline Gas Co	Ledco, Inc	02-12-92	G-S	80,000	N	I	01-23-92	Indef.
ST92-2308	Trunkline Gas Co	Ledco, Inc	02-12-92	G-S	100,000	N	I	01-30-92	Indef.
ST92-2309	Trunkline Gas Co	CNG Producing Co	02-12-92	G-S	60,000	N	I	01-29-92	Indef.
ST92-2310	Northern Natural Gas Co	Enron Gas Marketing, Inc	02-12-92	G-S	50,000	A	F/I	01-17-92	Indef.
ST92-2311	Northern Natural Gas Co	Pan-Alberta Gas (U.S.) Inc	02-12-92	G-S	15,000	N	F	02-01-92	07-31-92.
ST92-2312	Northern Natural Gas Co	Enserch Gas Co	02-12-92	G-S	100,000	N	F/I	01-31-92	Indef.
ST92-2313	Northern Natural Gas Co	NGC Transportation, Inc	02-12-92	G-S	100,000	N	F/I	02-02-92	Indef.
ST92-2314	Northern Natural Gas Co	Santa Fe Minerals, Inc	02-12-92	G-S	100,000	N	F/I	01-15-92	Indef.
ST92-2315	Northern Natural Gas Co	Tenaska Marketing Ventures.	02-12-92	G-S	150,000	N	F/I	01-25-92	Indef.
ST92-2316	Florida Gas Transmission Co.	Indian River Foods	02-12-92	G-S	4,220	N	I	01-28-92	Indef.
ST92-2317	Florida Gas Transmission Co.	Rinker Materials Corp	02-12-92	G-S	90,000	N	I	01-28-92	Indef.
ST92-2318	Florida Gas Transmission Co.	Tropicana Products, Inc	02-12-92	G-S	4,080	N	I	01-27-92	Indef.
ST92-2319	Arkansas Oklahoma Gas Corp.	Ozark Gas Transmission System.	02-12-92	G-HT	1,000	N	I	02-01-92	Indef.
ST92-2320	Arkansas Oklahoma Gas Corp.	Crown Pipeline Co	02-12-92	G-HT	4,000	N	I	02-01-92	Indef.
ST92-2321	Great Lakes Gas Trans. L.P.	Mobil Natural Gas Inc	02-12-92	G-S	100,000	N	I	01-13-92	Indef.
ST92-2322	Transcontinental Gas P/L Corp.	Scana Hydrocarbons, Inc	02-13-92	G-S	420,000	N	I	01-29-92	Indef.
ST92-2323	Transcontinental Gas P/L Corp.	Varibus Corp., et al	02-13-92	B	100,000	N	I	02-03-92	Indef.
ST92-2324	Transcontinental Gas P/L Corp.	City of Hartwell	02-13-92	B	3,895	N	F	02-01-92	03-31-06.
ST92-2325	Transcontinental Gas P/L Corp.	City of Elberton	02-13-92	B	3,895	N	F	02-01-92	03-31-06.
ST92-2326	United Texas Transmission Co.	Natural Gas P/L Co. of America.	02-13-92	C	30,000	N	I	01-04-92	Indef.
ST92-2327	Sipco Gas Transmission Corp.	Natural Gas P/L Co. of America.	02-13-92	C	20,000	N	I	01-01-92	Indef.
ST92-2328	Tannessee Gas Pipeline Co.	Western Gas Marketing USA Limited.	02-13-92	G-S	450,000	N	I	01-25-92	Indef.
ST92-2329	Trunkline Gas Co	Tejas Power Corp	02-13-92	G-S	50,000	N	I	02-01-92	Indef.
ST92-2330	Texas Gas Transmission Corp.	Stellar Gas Co	02-13-92	G-S	50,000	N	I	02-02-92	Indef.
ST92-2331	Texas Gas Transmission Corp.	MG Natural Gas Corp	02-13-92	G-S	20,000	N	I	02-01-92	Indef.
ST92-2332	Texas Gas Transmission Corp.	Southern Gas Co., Inc	02-13-92	G-S	22,500	N	I	02-01-92	Indef.
ST92-2333	Texas Gas Transmission Corp.	Arkla Energy Marketing Co	02-13-92	G-S	100,000	N	I	02-01-92	Indef.
ST92-2334	Texas Gas Transmission Corp.	CMS Gas Marketing	02-13-92	G-S	100,000	N	I	02-01-92	Indef.
ST92-2335	Alabama-Tennessee Nat. Gas Co.	City of Florence Gas Dept	02-13-92	B	7,564	N	I	01-16-92	Indef.
ST92-2336	Westar Transmission Co	El Paso Natural Gas Co	02-14-92	C	100,000	N	I	01-01-92	Indef.
ST92-2337	ONG Transmission Co	Oktex Pipeline Co	02-14-92	C	20,000	N	I	01-22-92	Indef.
ST92-2338	ONG Transmission Co	Oktex Pipeline Co	02-14-92	C	75,000	N	I	01-22-92	Indef.
ST92-2339	United Gas Pipe Line Co	Arkla Energy Marketing Co	02-14-92	G-S	209,600	N	I	01-31-92	05-30-92.
ST92-2340	United Gas Pipe Line Co	Laser Marketing Co	02-14-92	G-S	628,800	N	I	02-06-92	06-05-92.
ST92-2341	United Gas Pipe Line Co	Energy Marketing Exchange, Inc.	02-14-92	G-S	78,600	N	I	01-31-92	05-30-92.
ST92-2342	United Gas Pipe Line Co	Trunkline Gas Co	02-14-92	G-S	15,000	N	I	02-01-92	05-31-92.
ST92-2343	United Gas Pipe Line Co	Shell Gas Trading Co	02-14-92	G-S	209,600	N	I	01-31-92	05-30-92.
ST92-2344	United Gas Pipe Line Co	Equitable Resources Marketing Co.	02-14-92	G-S	262,000	N	I	02-06-92	06-05-92.
ST92-2345	United Gas Pipe Line Co	Arkla Energy Marketing Co	02-14-92	G-S	33,000	N	I	01-06-92	06-05-92.
ST92-2346	United Gas Pipe Line Co	CNG Trading Co	02-14-92	G-S	31,440	N	I	01-31-92	05-30-92.
ST92-2347	United Gas Pipe Line Co	Gulf States Utilities Co	02-14-92	G-S	419,200	N	I	02-03-92	06-02-92.
ST92-2348	United Gas Pipe Line Co	Nerco Oil & Gas, Inc	02-14-92	G-S	35,000	N	I	01-31-92	05-30-92.
ST92-2349	Tennessee Gas Pipeline Co.	Shell Gas Trading Co	02-14-92	G-S	500,000	N	I	01-23-92	Indef.
ST92-2350	Tennessee Gas Pipeline Co.	O & O Energy Development, Inc.	02-14-92	G-S	2,000	N	I	01-15-92	Indef.
ST92-2351	Transcontinental Gas P/L Corp.	City of Commerce	02-14-92	B	2,910	N	F	02-01-92	03-31-06.
ST92-2352	Transcontinental Gas P/L Corp.	Enserch Gas Co	02-14-92	G-S	250,000	N	I	02-29-92	Indef.

Docket number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST92-2353	Transcontinental Gas P/L Corp.	City of Royston	02-14-92	B	2,030	A	F	02-01-92	03-31-06.
ST92-2354	Transcontinental Gas P/L Corp.	Maplesville Water & Gas Board.	02-14-92	B	581	A	F	02-01-92	03-31-06.
ST92-2355	Transcontinental Gas P/L Corp.	City of Sugar Hill	02-14-92	B	1,015	A	F	02-01-92	03-31-06.
ST92-2356	Transcontinental Gas P/L Corp.	City of Social Circle	02-14-92	B	895	A	F	02-01-92	03-31-06.
ST92-2357	Trunkline Gas Co	Energy Marketing Exchange, Inc.	02-14-92	G-S	50,000	N	I	02-02-92	Indef.
ST92-2358	Trunkline Gas Co	Polaris Pipeline Corp	02-14-92	G-S	50,000	N	I	02-01-92	Indef.
ST92-2359	Trunkline Gas Co	Brooklyn Interstate Nat. Gas Corp.	02-14-92	G-S	50,000	N	I	02-01-92	Indef.
ST92-2360	Trunkline Gas Co	Coastal Gas Marketing Co	02-14-92	G-S	100,000	N	I	02-01-92	Indef.
ST92-2361	Transcontinental Gas P/L Corp.	City of Lawrenceville	02-14-92	B	4,900	A	I	02-01-92	03-31-06.
ST92-2362	Transcontinental Gas P/L Corp.	City of Wedowee	02-14-92	B	491	A	I	02-01-92	03-31-06.
ST92-2363	Transcontinental Gas P/L Corp.	Virginia Natural Gas, Inc	02-14-92	B	34,715	A	F	02-01-92	03-31-05.
ST92-2364	Transcontinental Gas P/L Corp.	City of Covington	02-14-92	B	5,000	N	F	02-01-92	03-31-06.
ST92-2365	Columbia Gulf Transmission Co.	Enermax, Div. of Nukem, Inc.	02-14-92	G-S	100,000	N	I	02-01-92	Indef.
ST92-2366	Columbia Gulf Transmission Co.	Tex/Con Marketing Co	02-14-92	G-S	10,000	N	I	02-01-92	Indef.
ST92-2367	Columbia Gulf Transmission Co.	Ledco, Inc	02-14-92	G-S	100,000	N	I	01-24-92	Indef.
ST92-2368	Columbia Gulf Transmission Co.	Stellar Gas Co	02-14-92	G-S	50,000	N	I	01-30-92	Indef.
ST92-2369	Columbia Gulf Transmission Co.	Enron Gas Marketing, Inc	02-14-92	G-S	130,000	N	I	02-01-92	Indef.
ST92-2370	Columbia Gulf Transmission Co.	Mobil Natural Gas, Inc	02-14-92	G-S	20,000	N	I	02-01-92	Indef.
ST92-2371	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-14-92	B	87,412	N	I	11-01-91	04-01-92.
ST92-2372	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-14-92	B	87,412	N	I	11-09-91	04-01-92.
ST92-2373	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-14-92	B	87,412	N	I	11-01-91	04-01-92.
ST92-2374	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-14-92	B	87,412	N	I	11-01-91	04-01-92.
ST92-2375	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-14-92	B	87,412	N	I	01-18-92	04-01-92.
ST92-2376	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-14-92	B	87,412	N	I	01-18-92	04-01-92.
ST92-2377	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-14-92	B	87,412	N	I	12-09-91	04-01-92.
ST92-2378	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-14-92	B	87,412	N	I	11-01-91	04-01-92.
ST92-2379	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-14-92	B	87,412	N	I	11-01-91	04-01-92.
ST92-2380	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-14-92	B	87,412	N	I	11-01-91	04-01-92.
ST92-2381	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-14-92	B	87,412	N	I	11-16-91	04-01-92.
ST92-2382	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-14-92	B	87,412	N	I	11-05-91	04-01-92.
ST92-2383	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-14-92	B	87,412	N	I	11-06-91	04-01-92.
ST92-2384	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-14-92	B	87,412	N	I	11-13-91	04-01-92.
ST92-2385	Texas Eastern Transmission Corp.	Texas Southeastern Gas Co.	02-14-92	B	15,000	N	I	01-25-92	Indef.
ST92-2386	Texas Eastern Transmission Corp.	North American Corp	02-14-92	B	10,000	N	I	01-17-92	Indef.
ST92-2387	Texas Eastern Transmission Corp.	Tejas Hydrocarbons Co	02-14-92	G-S	100,000	N	I	02-17-92	Indef.
ST92-2388	Texas Eastern Transmission Corp.	Energy Marketing Exchange, Inc.	02-18-92	G-S	100,000	N	I	02-17-92	Indef.
ST92-2389	ANR Pipeline Co	Minnegasco, Inc	02-18-92	B	150,000	N	I	01-18-92	Indef.
ST92-2390	Delhi Gas Pipeline Corp	Natural Gas P/L Co. of America.	02-18-92	C	250,000	N	I	01-20-92	Indef.
ST92-2391	Natural Gas P/L Co. of America.	Union Pacific Fuels, Inc	02-18-92	G-S	20,000	N	I	02-01-92	Indef.
ST92-2392	Transok, Inc	Northern Natural Gas Co	02-18-92	C	50,000	N	I	01-10-92	Indef.
ST92-2394	Exxon Gas System, Inc	Northern Natural Gas Co	02-18-92	C	100,000	N	I	01-02-92	Indef.
ST92-2395	East Tennessee Natural Gas Co.	Great Lakes Chemical Corp	02-18-92	G-S	1,400	N	I	01-23-92	Indef.

Docket number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST92-2396	East Tennessee Natural Gas Co.	Equitable Resources Marketing Co.	02-18-92	G-S	75,000	N	I	01-23-92	Indef.
ST92-2397	East Tennessee Natural Gas Co.	Jefferson-Coke County Util. Dist.	02-18-92	G-S	30,000	N	I	01-23-92	Indef.
ST92-2398	East Tennessee Natural Gas Co.	J.M. Huber Corp	02-18-92	G-S	5,200	N	I	01-23-92	Indef.
ST92-2399	East Tennessee Natural Gas Co.	K N Gas Marketing, Inc	02-18-92	G-S	150,000	N	I	01-23-92	Indef.
ST92-2400	East Tennessee Natural Gas Co.	GLI, Inc	02-18-92	G-S	5,000	N	I	01-23-92	Indef.
ST92-2401	East Tennessee Natural Gas Co.	Westvaco Corp	02-18-92	G-S	500	N	I	01-28-92	Indef.
ST92-2402	East Tennessee Natural Gas Co.	Mobil Natural Gas Inc	02-18-92	G-S	100,000	N	I	01-29-92	Indef.
ST92-2403	East Tennessee Natural Gas Co.	Roanoke Gas Co	02-18-92	G-S	10,000	N	I	01-29-92	Indef.
ST92-2404	East Tennessee Natural Gas Co.	Imco Recycling Inc	02-18-92	G-S	2,000	N	I	01-29-92	Indef.
ST92-2405	Trunkline Gas Co	Tejas Power Corp	02-14-92	G-S	100,000	N	I	02-01-92	Indef.
ST92-2406	Trunkline Gas Co	CMS Gas Marketing Co	02-14-92	G-S	100,000	N	I	02-01-92	Indef.
ST92-2407	Mississippi River Trans. Corp.	Amgas, Inc	02-18-92	G-S	10,000	N	I	02-22-92	Indef.
ST92-2409	Columia Gas Transmission Corp.	Honda of America Mtg., Inc	02-18-92	G-S	3,500	Y	I	02-01-92	02-29-92.
ST92-2410	Columia Gas Transmission Corp.	Southern Public Service Co	02-18-92	G-S	3,000	N	I	02-01-92	Indef.
ST92-2411	Columia Gas Transmission Corp.	O & R Energy, Inc	02-18-92	G-S	2,200	Y	I	02-01-92	09-30-92.
ST92-2412	Columia Gas Transmission Corp.	Pedricktown Cogeneration L.P.	02-18-92	G-S	6,000	N	I	02-01-92	Indef.
ST92-2413	Transcontinental Gas P/L Corp.	United Cities Gas Co	02-18-92	B	8,100	A	F	02-01-92	03-31-98.
ST92-2414	Transcontinental Gas P/L Corp.	City of Alexander City	02-18-92	B	5,500	N	F	02-01-92	03-31-01.
ST92-2415	Transcontinental Gas P/L Corp.	Energy Marketing Exchanges, Inc.	02-18-92	G-S	55,000	N	I	01-17-92	Indef.
ST92-2416	Transcontinental Gas P/L Corp.	Tri-County Natural Gas Co	02-18-92	B	2,643	A	F	01-01-92	03-31-06.
ST92-2417	Transcontinental Gas P/L Corp.	Consolidated Edison of NY, Inc.	02-18-92	B	324,522	A	F	01-01-92	03-31-05.
ST92-2418	Transcontinental Gas P/L Corp.	City of Kings Mountain	02-18-92	B	4,100	N	F	02-01-92	03-31-00.
ST92-2419	Transcontinental Gas P/L Corp.	City of Greenwood	02-18-92	B	8,600	A	F	02-01-92	10-21-04.
ST92-2420	Transcontinental Gas P/L Corp.	Long Island Lighting Co	02-18-92	B	146,070	A	F	02-01-92	03-31-05.
ST92-2421	Arkla Energy Resources	Arkansas Louisiana Gas Co	02-18-92	B	3,000	A	F	10-01-91	Indef.
ST92-2422	Arkla Energy Resources	Benchmark Gas Systems, Inc.	02-18-92	-S	50,000	N	I	01-31-91	Indef.
ST92-2423	Arkla Energy Resources	Arkla Energy Marketing Co	02-18-92	G-S	2,033	A	F	11-01-91	Indef.
ST92-2424	Arkla Energy Resources	City of Winfield	02-18-92	B	6,000	Y	F	11-01-91	Indef.
ST92-2425	Arkla Energy Resources	Arkla Energy Marketing Co	02-18-92	G-S	300,000	A	I	09-01-91	Indef.
ST92-2426	Arkla Energy Resources	Louisiana Intrastate Corp	02-18-92	B	70,000	A	I	11-01-91	Indef.
ST92-2427	Arkla Energy Resources	Arkla Energy Marketing Co	02-18-92	G-S	300,000	A	I	09-01-91	Indef.
ST92-2428	Arkla Energy Resources	Louisiana Intrastate Corp	02-18-92	B	300,000	A	I	10-15-91	Indef.
ST92-2429	Arkla Energy Resources	Arkla Energy Marketing Co	02-18-92	G-S	30,000	A	F	11-01-91	Indef.
ST92-2430	Arkla Energy Resources	Minnegasco, Inc	02-18-92	B	25,000	A	F	11-01-91	Indef.
ST92-2431	Arkla Energy Resources	Beaird Industries, Inc	02-18-92	G-S	300	Y	F	12-01-91	Indef.
ST92-2432	Arkla Energy Resources	R.A. Miller Energy, Inc	02-18-92	G-S	500	N	I	01-01-92	Indef.
ST92-2433	Arkla Energy Resources	Rangeline Corp	02-18-92	G-S	50,000	N	I	01-09-92	Indef.
ST92-2434	Arkla Energy Resources	Arkla Energy Marketing Co	02-18-92	G-S	1,000	A	F	11-01-91	Indef.
ST92-2435	Arkla Energy Resources	Arkla Energy Marketing Co	02-18-92	G-S	15,000	A	I	04-01-91	Indef.
ST92-2436	Arkla Energy Resources	Polaris Pipeline Corp	02-18-92	G-S	75,000	N	I	12-05-91	Indef.
ST92-2437	Arkla Energy Resources	Arkla Energy Marketing Co	02-18-92	G-S	400,000	N	I	09-01-91	Indef.
ST92-2438	Arkla Energy Resources	K N Gas Marketing, Inc	02-18-92	G-S	10,000	N	I	01-31-92	Indef.
ST92-2439	Arkla Energy Resources	Reynolds Pipeline Systems, Inc.	02-18-92	G-S	5,000	N	I	11-14-91	Indef.
ST92-2440	Arkla Energy Resources	Kerr-Mcgee Corp	02-18-92	G-S	3,500	N	I	11-02-91	Indef.
ST92-2441	Arkla Energy Resources	Arkla Energy Marketing Co	02-18-92	G-S	8,000	A	F	09-01-91	07-31-92.
ST92-2442	Colorado Interstate Gas Co	OXY USA Inc	02-19-92	G-S	60,000	N	I	01-25-92	Indef.
ST92-2443	Colorado Interstate Gas Co	Vesgas Co	02-19-92	G-S	5,000	N	I	01-25-92	Indef.
ST92-2444	Colorado Interstate Gas Co	Grand Valley Gas Co	02-19-92	G-S	30,000	N	I	01-11-92	Indef.
ST92-2445	Colorado Interstate Gas Co	Louis Dreyfus Energy Corp	02-19-92	G-S	15,000	N	I	01-01-92	12-31-92.
ST92-2446	Colorado Interstate Gas Co	Western Nat. Gas and Trans. Corp.	02-19-92	G-S	3,000	N	I	02-01-92	Indef.
ST92-2447	Colorado Interstate Gas Co	Associated Intrastate P/L Co.	02-19-92	G-S	60,000	N	I	01-01-92	Indef.
ST92-2448	Colorado Interstate Gas Co	Williams Gas Marketing Co	02-19-92	G-S	30,000	N	I	01-14-92	Indef.
ST92-2449	Colorado Interstate Gas Co	Coastal Gas Marketing Co	02-19-92	G-S	20,000	A	I	01-01-92	Indef.

Docket number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST92-2450	Colorado Interstate Gas Co	North American Resources Co.	02-19-92	G-S	15,000	N	F	01-01-92	12-01-06.
ST92-2451	Colorado Interstate Gas Co	Universal Resources Corp	02-19-92	G-S	25,000	N	I	01-15-92	Indef.
ST92-2452	Colorado Interstate Gas Co	Continental Natural Gas, Inc.	02-19-92	G-S	50,000	N	I	01-09-02	Indef.
ST92-2453	Colorado Interstate Gas Co	Grand Valley Gas Co	02-19-92	G-S	30,000	N	I	01-16-92	Indef.
ST92-2454	Colorado Interstate Gas Co	Williams Gas Marketing Co	02-19-92	G-S	15,000	N	I	01-01-92	Indef.
ST92-2455	Colorado Interstate Gas Co	Interenergy Transmission Partners.	02-19-92	G-S	10,000	N	I	01-01-92	Indef.
ST92-2456	Colorado Interstate Gas Co	Rangeline Corp	02-19-92	G-S	1,000	N	I	01-01-92	Indef.
ST92-2457	Colorado Interstate Gas Co	Celsius Energy Co	02-19-92	G-S	60,000	N	I	01-01-92	Indef.
ST92-2458	Colorado Interstate Gas Co	Texaco Gas Marketing Inc	02-19-92	G-S	500	N	I	01-01-92	Indef.
ST92-2459	Colorado Interstate Gas Co	Western Gas Resources, Inc.	02-19-92	G-S	5,000	N	I	01-01-92	Indef.
ST92-2460	Louisiana Resources Co	Southern Natural Gas Co	02-19-92	C	60,000	N	I	02-07-92	Indef.
ST92-2461	Stingray Pipeline Co	Louisiana Resources Co	02-19-92	G-S	50,000	N	I	10-01-90	Indef.
ST92-2462	Panhandle Eastern Pipeline Co.	Amgas, Inc	02-20-92	G-S	80	N	I	02-01-92	Indef.
ST92-2463	Panhandle Eastern Pipeline Co.	Western Gas Resources, Inc.	02-20-92	G-S	150,000	N	I	02-01-92	Indef.
ST92-2464	Panhandle Eastern Pipeline Co.	Coastal Gas Marketing Co	02-20-92	G-S	100,000	N	I	02-01-92	Indef.
ST92-2465	Panhandle Eastern Pipeline Co.	Amgas, Inc	02-20-92	G-S	60	N	I	02-01-92	Indef.
ST92-2466	Panhandle Eastern Pipeline Co.	Semco Energy Services, Inc.	02-20-92	G-S	50,000	N	I	02-01-92	Indef.
ST92-2467	Panhandle Eastern Pipeline Co.	Vesta Energy Co	02-20-92	G-S	50,000	N	I	02-01-92	Indef.
ST92-2468	Panhandle Eastern Pipeline Co.	Amgas, Inc	02-20-92	G-S	120	N	I	02-01-92	Indef.
ST92-2469	Panhandle Eastern Pipeline Co.	Amgas, Inc	02-20-92	G-S	400	N	I	01-26-92	Indef.
ST92-2470	Transcontinental Gas P/L Corp.	City of Wadley	02-19-92	B	356	N	F	02-01-92	03-31-92
ST92-2471	Transcontinental Gas P/L Corp.	City of Bowman	02-19-92	B	245	A	F	02-01-92	03-31-06.
ST92-2472	Transcontinental Gas P/L Corp.	City of Monroe	02-19-92	B	4,670	N	F	02-01-92	03-31-06.
ST92-2473	Transcontinental Gas P/L Corp.	North Carolina Gas Service	02-19-92	B	10,400	N	F	02-01-92	03-31-05.
ST92-2474	Transcontinental Gas P/L Corp.	Public Service Electric and Gas Co.	02-19-92	B	10,935	N	I	02-01-92	Indef.
ST92-2475	Transcontinental Gas P/L Corp.	Clinton-Newberry Nat. Gas Authority.	02-19-92	B	9,100	A	F	02-01-92	10-31-04.
ST92-2476	Transcontinental Gas P/L Corp.	Atlanta Gas Light Co	02-19-92	B	107,600	A	F	02-01-92	10-31-10.
ST92-2477	Transcontinental Gas P/L Corp.	Delmarva Power and Light Co.	02-19-92	B	54,800	A	F	02-01-92	10-31-05.
ST92-2478	Transcontinental Gas P/L Corp.	Public Service Electric and Gas Co.	02-19-92	B	411,527	A	F	02-01-92	10-31-05.
ST92-2479	Transcontinental Gas P/L Corp.	City of Rockford	02-19-92	B	139	N	F	02-01-92	10-31-06.
ST92-2480	Northern Natural Gas Co	Enron Gas Marketing, Inc	02-19-92	G-S	500,000	N	F/I	02-01-92	Indef.
ST92-2481	Northern Natural Gas Co	Texaco Gas Marketing, Inc	02-19-92	G-S	100,000	N	F/I	02-06-92	Indef.
ST92-2482	Tennessee Gas Pipeline Co	Meridian Marketing and Trans. Corp.	02-20-92	G-S	500	N	I	01-21-92-92	Indef.
ST92-2483	Webb/Duval Gatherers	Natural Gas P/L Co. of America.	02-20-92	C	100,000	N	I	01-01-92	Indef.
ST92-2484	Natural Gas P/L Co. of America.	American Central Gas Companies, Inc.	02-20-92	G-S	200,000	N	I	02-6-92	Indef.
ST92-2485	Transcontinental Gas P/L Corp.	Commonwealth Gas Services, Inc.	02-20-92	B	12,000	A	F	02-01-92	03-31-00.
ST92-2486	Transcontinental Gas P/L Corp.	City of Madison	02-20-92	B	1,135	N	F	02-01-92	03-31-06.
ST92-2487	Transcontinental Gas P/L Corp.	City of Buford	02-20-92	B	3,680	A.	F	02-01-92	03-31-06.
ST92-2488	Natural Gas P/L Co. of America.	Peoples Gas Light and Coke Co.	02-20-92	G-S	50,000	N	F	01-01-92	02-29-96.
ST92-2489	Natural Gas P/L Co. of America.	Peoples Gas Light and Coke Co..	02-20-92	G-S	65,000	N	F	01-01-92	02-29-96.
ST92-2490	Natural Gas P/L Co. of America.	Peoples Gas Light and Coke Co..	02-20-92	G-S	50,000	N	F	01-01-92	02-29-96.
ST92-2491	United Gas Pipe Line Co	Shell Gas Trading Co	02-20-92	G-S	31,440	N	I	02-06-92	06-05-92.
ST92-2492	United Gas Pipe Line Co	Texaco Gas Marketing Inc	02-20-92	G-S	41,920	N	I	02-06-92	06-05-92.
ST92-2493	United Gas Pipe Line Co	Shell Gas Trading Co	02-20-92	G-S	10,480	N	I	02-06-92	06-05-92.
ST92-2494	United Gas Pipe Line Co	Sonat Marketing Co	02-20-92	G-S	26,200	N	I	02-04-92	06-03-92.
ST92-2495	United Gas Pipe Line Co	Texaco Gas Marketing Inc	02-20-92	G-S	209,600	N	I	02-06-92	06-05-92.
ST92-2496	United Gas Pipe Line Co	Rally Pipeline Corp	02-20-92	G-S	59,736	N	I	02-14-92	06-13-92.
ST92-2497	Panhandle Eastern Pipe Line Co.	Hadson Gas Systems, Inc	02-21-92	G-S	50,000	N	I	02-01-92	Indef.

Docket number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST92-2498	Panhandle Eastern Pipe Line Co.	NGC Transportation, Inc	02-21-92	G-S	40,000	N	I	02-01-92	Indef.
ST92-2499	Panhandle Eastern Pipe Line Co.	Panhandle Trading Co	02-21-92	G-S	40,000	Y	I	02-01-92	Indef.
ST92-2500	Panhandle Eastern Pipe Line Co.	NGC Transportation, Inc	02-21-92	G-S	2,000	N	I	02-01-92	Indef.
ST92-2501	Panhandle Eastern Pipe Line Co.	O and R Energy, Inc	02-21-92	G-S	50,000	N	I	02-01-92	Indef.
ST92-2502	Tennessee Gas Pipeline Co.	Selkirk Cogen Partners, L.P.	02-21-92	G-S	50,000	N	I	02-01-92	Indef.
ST92-2503	Tennessee Gas Pipeline Co.	Tennagasco Exchange Corp.	02-21-92	G-S	1,000,000	A	I	01-26-92	Indef.
ST92-2504	Tennessee Gas Pipeline Co.	Stellar Gas Co	02-21-92	G-S	1,000,000	N	I	02-06-92	Indef.
ST92-2505	Florida Gas Transmission Co.	NGC Transportation, Inc	02-21-92	G-S	20,000	N	I	02-04-92	Indef.
ST92-2506	Florida Gas Transmission Co.	NGC Transportation, Inc	02-21-92	G-S	300,000	N	I	02-01-92	Indef.
ST92-2507	Florida Gas Transmission Co.	Florida Gas Utility	02-21-92	G-S	900,000	N	I	02-01-92	Indef.
ST92-2508	Florida Gas Transmission Co.	Entrade Corp	02-21-92	G-S	100,000	N	I	02-02-92	Indef.
ST92-2509	Florida Gas Transmission Co.	Florida Steel Corp	02-21-92	G-S	10,000	N	I	02-01-92	Indef.
ST92-2510	Florida Gas Transmission Co.	St. Joe Natural Gas Co., Inc.	02-21-92	G-S	4,145	N	I	02-01-92	Indef.
ST92-2511	Algonquin Gas Transmission Co.	NGC Transportation, Inc	02-21-92	G-S	625,000	N	I	12-04-91	Indef.
ST92-2512	Algonquin Gas Transmission Co.	CNG Producing Co	02-21-92	G-S	96,000	N	I	11-26-91	Indef.
ST92-2513	Algonquin Gas Transmission Co.	Tenngasco Corp	02-21-92	G-S	300,000	N	I	11-26-91	Indef.
ST92-2514	Algonquin Gas Transmission Co.	Brooklyn Interstate Nat. Gas Corp.	02-21-92	G-S	900,000	N	I	12-05-91	Indef.
ST92-2515	Algonquin Gas Transmission Co.	Brooklyn Interstate Nat. Gas Corp.	02-21-92	G-S	900,000	N	I	01-09-92	Indef.
ST92-2516	Algonquin Gas Transmission Co.	Brooklyn Interstate Nat. Gas Corp.	02-21-92	G-S	900,000	N	I	01-09-92	Indef.
ST92-2517	Algonquin Gas Transmission Co.	Brooklyn Interstate Nat. Gas Corp.	02-21-92	G-S	900,000	N	I	01-09-92	Indef.
ST92-2518	Algonquin Gas Transmission Co.	Ocean State Power	02-21-92	G-S	120,000	N	I	12-05-91	Indef.
ST92-2519	Algonquin Gas Transmission Co.	Entrade Corp.	02-21-92	G-S	200,000	N	I	12-02-91	Indef.
ST92-2520	Algonquin Gas Transmission Co.	Distrigas of Massachusetts Corp.	02-21-92	G-S	900,000	N	I	12-02-91	Indef.
ST92-2521	Tennessee Gas Pipeline Co.	Entrade Corp.	02-21-92	G-S	1,310,000	N	I	02-01-92	Indef.
ST92-2522	Tennessee Gas Pipeline Co.	Northern Illinois Gas Co	02-21-92	B	7,879	N	F	02-01-92	Indef.
ST92-2523	Tennessee Gas Pipeline Co.	Oryx Gas Marketing L.P.	02-21-92	G-S	31,500	N	I	02-04-92	Indef.
ST92-2524	Tennessee Gas Pipeline Co.	Aluminum Co. of America	02-21-92	G-S	13,265	Y	F	02-01-92	04-30-95.
ST92-2525	Columbia Gas Transmission Corp.	Magnum Drilling of Ohio, Inc.	02-21-92	G-S	35	N	I	02-11-92	Indef.
ST92-2526	Transcontinental Gas P/L Corp.	Elizabethtown Gas Co	02-21-92	B	75,126	A	F	02-01-92	10-31-04.
ST92-2527	Transcontinental Gas P/L Corp.	City of Roanoke	02-21-92	B	1,726	N	F	02-01-92	03-31-06.
ST92-2528	Valero Transmission, L.P.	Natural Gas P/L Co. of America.	02-21-92	C	2,500	N	I	01-22-92	Indef.
ST92-2529	Tennessee Gas Pipeline Co.	United Gas PipeLine Co.	02-21-92	G	307,500	N	I	01-22-92	Indef.
ST92-2530	Tennessee Gas Pipline Co.	Santa Fe Minerals, Inc.	02-21-92	G-S	6,000	N	I	10-01-91	Indef.
ST92-2531	Oktex Pipeline Co.	Lone Star Gas Co	02-21-92	B	50,000	N	I	01-22-92	Indef.
ST92-2532	Oktex Pipeline Co.	Lone Star Gas Co	02-21-92	B	75,000	N	F/I	01-22-92	06-30-01.
ST92-2533	K N Energy, Inc	Boyd Rosene & Associates, Inc.	02-24-92	G-S	10,000	N	I	02-13-92	Indef.
ST92-2534	Orange & Rockland Util., Inc.	Tennessee Gas Pipe Line Co.	02-24-92	G-HT	3,333	N	I	02-01-92	01-31-93
ST92-2535	Tennessee Gas Pipeline Co.	M & B Industrial Development Corp.	02-24-92	G-S	40,000	N	I	02-01-92	Indef.
ST92-2536	Tennessee Gas Pipeline Co.	East Ohio Gas Co	02-24-92	B	1,300	N	I	02-01-92	Indef.
ST92-2537	Tennessee Gas Pipeline Co.	Ledco, Inc.	02-24-92	G-S	60,000	N	I	01-31-92	Indef.
ST92-2538	Tennessee Gas Pipeline Co.	Polaris Pipeline Corp.	02-24-92	G-S	150,000	N	I	01-07-92	Indef.
ST92-2539	Superior Offshore Pipeline Co.	Central Illinois Public Ser., et al.	02-24-92	B	67,600	N	I	01-29-92	Indef.
ST92-2540	Inland Gas Co. Inc	Johnson's Dairy, Inc.	02-24-92	G-S	125	Y	I	02-01-92	Indef.

Docket number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST92-2541	Transcontinental Gas P/L Corp..	Owens-Corning Fiberglas Corp..	02-24-92	G-S	6,000	N	F	02-01-92	03-31-99.
ST92-2542	Transcontinental Gas P/L Corp..	City of Richmond, et al	02-24-92	B	336	N	F	02-01-92	07-31-98.
ST92-2543	Northwest Pipeline Corp.	Western Gas Marketing (U.S.A.) Ltd..	02-24-92	G-S	202,511	N	I	01-24-92	Indef.
ST92-2544	Northwest Pipeline Corp.	Windward Energy & Marketing Co..	02-24-92	G-S	50,000	N	I	02-01-92	Indef.
ST92-2545	United Gas Pipe Line Co.	Nukem, Inc.	02-24-92	G-S	104,800	N	I	02-14-92	06-13-92.
ST92-2546	United Gas Pipe Line Co.	Fina Natural Gas Co.	02-24-92	G-S	104,800	N	I	02-07-92	06-06-92.
ST92-2547	United Gas Pipe Line Co.	Fina Natural Gas Co.	02-24-92	G-S	26,200	N	I	02-07-92	06-06-92.
ST92-2548	United Gas Pipe Line Co.	Ledco, Inc.	02-24-92	G-S	488,629	N	I	02-14-92	06-13-92.
ST92-2549	United Gas Pipe Line Co.	Endevco Oil & Gas Co.	02-24-92	G-S	26,200	N	I	02-05-92	06-04-92.
ST92-2550	United Gas Pipe Line Co.	Nukem, Inc	02-24-92	G-S	104,800	N	I	02-11-92	06-10-92.
ST92-2551	Brooklyn Union Gas Co.	O & R Energy, Inc.	02-24-92	C	50,000	N	I	02-04-92	02-04-94.
ST92-2552	Brooklyn Union Gas Co.	Entrade Corp.	02-24-92	C	50,000	N	I	02-04-92	02-04-94.
ST92-2553	Sea Robin Pipeline Co.	Enermax Corp.	02-24-92	G-S	100,000	N	I	02-01-92	Indef.
ST92-2554	Southern Natural Gas Co.	Freeport-McMoran Resource.	02-24-92	G-S	18,000	N	F	02-04-92	01-31-12.
ST92-2555	Southern Natural Gas Co.	Nortech Energy Corp.	02-24-92	G-S	50,000	N	I	01-21-92	Indef.
ST92-2556	Southern Natural Gas Co.	Enermax Corp.	02-24-92	G-S	100,000	N	I	02-01-92	Indef.
ST92-2557	Southern Natural Gas Co.	Louis Dreyfus Energy Corp.	02-24-92	G-S	75,000	N	I	01-07-92	Indef.
ST92-2558	Southern Natural Gas Co.	Tejas Hydrocarbons Co.	02-24-92	G-S	100,000	N	I	02-13-92	Indef.
ST92-2559	Arkla Energy Resources	Intersearch Gas Corp.	02-25-92	B	750	N	F	01-01-92	Indef.
ST92-2560	Arkla Energy Resources	Pine Island Pipeline	02-25-92	B	1,000	N	F	12-17-91	Indef.
ST92-2561	Northern Natural Gas Co.	Intratex Gas Co.	02-25-92	B	20,000	N	F/I	02-01-92	Indef.
ST92-2562	Northern Natural Gas Co.	Entrade Corp.	02-25-92	G-S	150,000	N	F/I	02-01-92	Indef.
ST92-2563	East Tennessee Natural Gas Co..	Mobil Oil Exploration & Pro. SE.	02-25-92	G-S	100,000	N	I	01-31-92	Indef.
ST92-2564	East Tennessee Natural Gas Co..	Archer Daniels Midland Co.	02-25-92	G-S	5,000	N	I	01-31-92	Indef.
ST92-2565	East Tennessee Natural Gas Co..	Graham Energy Marketing Corp..	02-25-92	G-S	100,000	N	I	01-29-92	Indef.
ST92-2566	East Tennessee Natural Gas Co..	Alatenn Energy Marketing Co., Inc..	02-25-92	G-S	500,000	N	I	01-29-92	Indef.
ST92-2567	East Tennessee Natural Gas Co.	Tejas Power Corp	02-25-92	G-S	100,000	N	I	01-30-92	Indef.
ST92-2568	East Tennessee Natural Gas Co.	Seagull Marketing Services, Inc.	02-25-92	G-S	200,000	N	I	01-31-92	Indef.
ST92-2569	East Tennessee Natural Gas Co.	Dixie Yarns, Inc	02-25-92	G-S	2,000	N	I	01-31-92	Indef.
ST92-2570	East Tennessee Natural Gas Co.	Clinton Gas Marketing, Inc	02-25-92	G-S	10,000	N	I	01-31-92	Indef.
ST92-2571	East Tennessee Natural Gas Co.	Amoco Energy Trading Corp.	02-25-92	G-S	100,000	N	I	01-30-92	Indef.
ST92-2572	East Tennessee Natural Gas Co.	Triangle Auto Spring Co	02-25-92	G-S	500	N	I	01-29-92	Indef.
ST92-2573	East Tennessee Natural Gas Co.	Citizens Gas Utility District	02-25-92	G-S	11,000	N	I	01-30-92	Indef.
ST92-2574	East Tennessee Natural Gas Co.	Meridian Oil Trading Inc	02-25-92	G-S	100,000	N	I	01-31-92	Indef.
ST92-2575	ANR Pipeline Co	Baltimore Gas and Elect. Co.	02-25-92	B	150,000	N	I	02-06-92	Indef.
ST92-2576	ANR Pipeline Co	Northern Illinois Gas Co	02-25-92	B	100,000	N	I	02-01-92	Indef.
ST92-2577	ANR Pipeline Co	NGC Transportation, Inc	02-25-92	G-S	100,000	N	I	02-01-92	Indef.
ST92-2578	ANR Pipeline Co	Nipsco, et al	02-25-92	B	30,000	N	I	02-05-92	Indef.
ST92-2579	Columbia Gas Transmission Corp.	Newport Steel Corp	02-25-92	G-S	10,000	N	I	02-10-92	Indef.
ST92-2580	Tennessee Gas Pipeline Co..	Hadson Gas Systems, Inc	02-26-92	G-S	6,614	N	F	01-28-92	03-31-92.
ST92-2581	Arkansas Oklahoma Gas Corp.	Arkla Energy Resources	02-26-92	G-HT	6,000	N	I	02-21-92	Indef.
ST92-2582	ANR Pipeline Co	Shell Offshore Inc	02-26-92	G-S	10,000	N	I	02-07-92	Indef.
ST92-2583	ANR Pipeline Co	CMS Gas Marketing	02-26-92	G-S	25,000	N	I	02-07-92	Indef.
ST92-2584	Northwest Pipeline Corp	Norcen Marketing, Inc	02-26-92	G-S	30,000	N	I	01-31-92	Indef.
ST92-2585	El Paso Natural Gas Co.	Westar Transmission Co	02-26-92	G-S	30,900	Y	F	02-02-92	Indef.
ST92-2586	El Paso Natural Gas Co.	Grand Valley Gas Co	02-26-92	G-S	25,750	Y	I	02-01-92	Indef.
ST92-2587	El Paso Natural Gas Co.	City of Willcox	02-26-92	B	21,555	Y	I	02-05-92	Indef.
ST92-2588	Transcontinental Gas P/L Corp.	Rochester Gas & Elect., et al.	02-26-92	B	1,025,000	N	I	01-10-92	Indef.
ST92-2589	Transcontinental Gas P/L Corp.	Public Service of NY, Inc., et al.	02-26-92	B	1,400,000	A	I	01-29-92	Indef.
ST92-2590	Transcontinental Gas P/L Corp.	Consolidated Ed. of NY, Inc. et al.	02-26-92	B	285,900	N	I	01-18-92	Indef.
ST92-2591	Texas Gas Transmission Corp.	Broad Street Oil and Gas Co., et al.	02-26-92	G-S	20,000	N	I	02-02-92	Indef.
ST92-2592	Pacific Gas Transmission Co.	Pacific Gas and Electric Co.	02-27-92	G-S	30,450	N	F	02-01-92	Indef.
ST92-2593	Pacific Gas Transmission Co.	NGC Transportation, Inc	02-27-92	G-S	200,000	N	I	02-03-92	Indef.
ST92-2594	Lone Star Gas Co.	Tennessee Gas Pipeline Co..	02-27-92	C	25,000	N	I	01-01-92	Indef.

Docket number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST92-2595	Channel Industries Gas Co	Transcontinental Gas P/L Corp.	02-27-92	C	10,000	N	I	02-01-92	Indef.
ST92-2596	Channel Industries Gas Co	Tennessee Gas Pipeline Co.	02-27-92	C	300,000	N	I	01-30-92	Indef.
ST92-2597	Channel Industries Gas Co	Transcontinental Gas P/L Corp.	02-27-92	C	300,000	A	I	01-30-92	Indef.
ST92-2598	Tennessee Gas Pipeline Co.	Kerr McGee Chemical Corp.	02-27-92	G-S	3,663	A	F	02-01-92	06-30-94.
ST92-2599	Tennessee Gas Pipeline Co.	Colonial Gas Co	02-27-92	B	15,000	N	I	02-02-92	Indef.
ST92-2600	Tennessee Gas Pipeline Co.	Stellar Gas Co	02-27-92	G-S	100,000	N	I	02-01-92	Indef.
ST92-2601	Iroquois Gas Trans. System, L.P.	Consolidated Edison Co. of NY., Inc.	02-27-92	B	100,000	N	I	02-05-92	10-31-92
ST92-2602	Iroquois Gas Trans. System, L.P.	Coastal Gas Marketing Co	02-27-92	G-S	576,000	Y	I	02-01-92	02-29-92.
ST92-2603	Iroquois Gas Trans. System, L.P.	Long Island Light Co	02-27-92	B	225,000	N	I	02-04-92	10-31-92.
ST92-2604	Iroquois Gas Trans. System, L.P.	JMCS 1 Management Corp	02-27-92	G-S	576,000	N	I	02-01-92	10-31-92.
ST92-2605	Iroquois Gas Trans. System, L.P.	Public Service Electric & Gas Co.	02-27-92	B	290	N	I	02-01-92	10-31-92.
ST92-2606	Iroquois Gas Trans. System, L.P.	Bishop Pipeline Corp	02-27-92	G-S	238,569	N	I	02-04-92	10-31-92.
ST92-2607	Iroquois Gas Trans. System, L.P.	Enron Gas Marketing, Inc	02-27-92	G-S	576,000	N	I	02-12-92	10-31-92.
ST92-2608	Iroquois Gas Trans. System, L.P.	Paragon Gas Corp	02-27-92	G-S	360,000	N	I	02-01-92	10-31-92.
ST92-2609	Iroquois Gas Trans. System, L.P.	Hadson Gas Systems, Inc	02-27-92	G-S	350,000	N	I	01-27-92	10-31-92.
ST92-2610	Iroquois Gas Trans. System, L.P.	Coastal Gas Marketing Co	02-27-92	G-S	19,900	Y	I	02-01-92	02-29-92.
ST92-2611	Algonquin Gas Transmission Co.	NGC Transportation, Inc	02-27-92	G-S	200,000	N	I	12-07-91	Indef.
ST92-2612	Algonquin Gas Transmission Co.	NGC Transportation, Inc	02-27-92	G-S	200,000	N	I	12-16-91	Indef.
ST92-2613	Algonquin Gas Transmission Co.	Paragon Gas Corp	02-27-92	G-S	120,000	N	I	12-20-91	Indef.
ST92-2614	Algonquin Gas Transmission Co.	North Jersey Energy Associates.	02-27-92	G-S	748,410	N	I	12-25-91	Indef.
ST92-2615	Algonquin Gas Transmission Co.	Yuma Gas Corp.	02-27-92	G-S	25,000	N	I	12-19-91	Indef.
ST92-2616	Algonquin Gas Transmission Co.	Southern Connecticut Gas Corp.	02-27-92	G-S	458,000	N	I	12-05-91	Indef.
ST92-2617	Algonquin Gas Transmission Co.	Citizens Gas Supply Corp	02-27-92	G-S	450,000	N	I	12-07-91	Indef.
ST92-2618	Algonquin Gas Transmission Co.	O & R Energy, Inc	02-27-92	G-S	50,000	N	I	12-05-91	Indef.
ST92-2619	Algonquin Gas Transmission Co.	O & R Energy, Inc	02-27-92	G-S	50,000	N	I	01-01-92	Indef.
ST92-2620	Transcontinental Gas P/L Corp.	Philadelphia Electric Co., et al.	02-27-92	B	280,000	N	I	02-24-92	Indef.
ST92-2621	Transcontinental Gas P/L Corp.	City of Union	02-27-92	B	5,600	N	F	02-01-92	03-31-00.
ST92-2622	Arkla Energy Resources	Associated Natural Gas Inc.	02-27-92	B	100,000	N	I	12-06-91	Indef.
ST92-2623	Transwestern Pipeline Co	Eastex Hydrocarbons, Inc	02-27-92	G-S	75,000	N	I	02-14-92	Indef.
ST92-2624	Northern Natural Gas Co	Maple Gathering Corp	02-27-92	G-S	15,000	N	F/I	01-28-92	Indef.
ST92-2625	United Gas Pipeline Co	Shell Gas Trading Co	02-27-92	G-S	209,600	N	I	02-18-92	06-17-92.
ST92-2626	United Gas Pipeline Co	Shell Oil Co	02-27-92	G-S	62,880	N	I	02-18-92	06-17-92.
ST92-2627	United Gas Pipeline Co	Sigco Marketing, Inc	02-27-92	G-S	9,982	N	I	02-18-92	06-17-92.
ST92-2628	United Gas Pipeline Co	Texaco Gas Marketing Inc	02-27-92	G-S	41,920	N	F	02-17-92	06-16-92.
ST92-2629	Carnegie Natural Gas Co	Columbia Gas of Pennsylvania, Inc.	02-28-92	B	20,000	N	I	11-01-91	Indef.
ST92-2630	Tennessee Gas Pipeline Co.	Sunnybrook Transmission, Inc.	02-28-92	G-S	25,000	N	I	02-01-92	Indef.
ST92-2631	Valero Transmission, L.P	Florida Gas Transmission	02-28-92	C	16,585	N	I	02-01-92	Indef.
ST92-2632	Valero Transmission, L.P	Florida Gas Transmission	02-28-92	C	4,700	N	I	02-01-92	Indef.
ST92-2633	ONG Transmission Co	Northern Natural Gas Co	02-28-92	C	100,000	N	I	11-01-91	Indef.
ST92-2634	Transok, Inc	Arkla Energy Resources	02-28-92	C	20,000	N	I	02-01-92	Indef.
ST92-2635	Transok, Inc	Panhandle Eastern Pipe Line Co.	02-28-92	C	50,000	N	I	02-01-92	Indef.
ST92-2636	Transok, Inc	Arkla Energy Resources	02-28-92	C	15,000	N	I	01-31-92	Indef.
ST92-2637	Williston Basin Inter. P/L Co.	Western Gas Resources, Inc.	02-28-92	G-S	6,800	A	I	01-31-92	05-15-93.
ST92-2638	East Tennessee Natural Gas Co.	Aluminum Co. of America	02-28-92	G-S	13,000	N	F	02-01-92	Indef.
ST92-2639	East Tennessee Natural Gas Co.	Colonial Gas Co	02-28-92	G-S	40,000	N	I	02-02-92	Indef.
ST92-2640	East Tennessee Natural Gas Co.	Lynchburg Foundry Co	02-28-92	G-S	1,300	N	I	02-05-92	Indef.
ST92-2641	East Tennessee Natural Gas Co.	Aluminum Co. of America	02-28-92	G-S	25,000	N	I	02-05-92	Indef.
ST92-2642	East Tennessee Natural Gas Co.	Rockwood Water, Waste, & N.G. Sys.	02-28-92	G-S	7,000	N	I	02-06-92	Indef.

Docket number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST92-2643	East Tennessee Natural Gas Co.	O & R Energy, Inc	02-28-92	G-S	50,000	N	I	02-11-92	Indef.
ST92-2644	East Tennessee Natural Gas Co.	Yuma Gas Corp	02-28-92	G-S	10,000	N	I	02-06-92	Indef.
ST92-2645	East Tennessee Natural Gas Co.	Central Soya Co., Inc	02-28-92	G-S	2,000	N	I	02-11-92	Indef.
ST92-2646	East Tennessee Natural Gas Co.	Rock-Tenn Co	02-28-92	G-S	3,000	N	I	02-11-92	Indef.
ST92-2647	East Tennessee Natural Gas Co.	North American Royalties, Inc.	02-28-92	G-S	2,500	N	I	02-11-92	Indef.
ST92-2648	Algonquin Gas Transmission Co.	Meridian Marketing and Trans. Corp.	02-28-92	G-S	30,000	N	I	01-08-92	Indef.
ST92-2649	Algonquin Gas Transmission Co.	Midcon Marketing Corp	02-28-92	G-S	900,000	N	I	01-11-92	Indef.
ST92-2650	Algonquin Gas Transmission Co.	Midcon Marketing Corp	02-28-92	G-S	900,000	N	I	01-11-92	Indef.
ST92-2651	Algonquin Gas Transmission Co.	O & R Energy, Inc	02-28-92	G-S	300,000	N	I	01-10-92	Indef.
ST92-2652	Algonquin Gas Transmission Co.	O & R Energy, Inc	02-28-92	G-S	300,000	N	I	01-01-92	Indef.
ST92-2653	Algonquin Gas Transmission Co.	O & R Energy, Inc	02-28-92	G-S	300,000	N	I	01-08-92	Indef.
ST92-2654	Algonquin Gas Transmission Co.	Hadson Gas Systems, Inc	02-28-92	G-S	200,000	N	I	01-01-92	Indef.
ST92-2655	Algonquin Gas Transmission Co.	Connecticut Natural Gas Corp.	02-28-92	G-S	200,000	N	I	01-01-92	Indef.
ST92-2656	Algonquin Gas Transmission Co.	City of Norwich Dept. of Pub. Util.	02-28-92	G-S	6,000	N	I	01-07-92	Indef.
ST92-2657	Algonquin Gas Transmission Co.	Woodward Marketing, Inc	02-28-92	G-S	200,000	N	I	01-14-92	Indef.
ST92-2658	Northern Natural Gas Co	Continental Natural Gas, Inc.	02-28-92	G-S	75,000	N	F/I	02-05-92	Indef.
ST92-2659	Northern Natural Gas Co	Coastal Gas Marketing Co	02-28-92	G-S	100,000	N	F/I	02-01-92	Indef.
ST92-2660	Northern Natural Gas Co	CNG Producing Co	02-28-92	G-S	88,457	N	F/I	02-01-92	Indef.
ST92-2661	Transcontinental Gas P/L Corp.	Municipal Gas Authority of Georgia.	02-28-92	B	500,000	N	I	02-01-92	Indef.
ST92-2662	Transcontinental Gas P/L Corp.	Enron Gas Marketing, Inc	02-28-92	B	900,000	N	I	02-01-92	Indef.
ST192-2663	Trunkline Gas Co	Stellar Gas Co.	02-28-92	G-S	50,000	N	I	02-15-92	Indef.
ST92-2664	Trunkline Gas Co	North Canadian Marketing Corp..	02-28-92	G-S	150,000	N	I	02-13-92	Indef.
ST92-2665	Trunkline Gas Co	Nukem, Inc.	02-28-92	G-S	100,000	N	I	02-15-92	Indef.
ST92-2666	Trunkline Gas Co	Equitable Resources Marketing Co.	02-28-92	G-S	75,000	N	I	02-02-92	Indef.
ST92-2667	Trunkline Gas Co	Texaco Gas Marketing, Inc	02-28-92	G-S	50,000	N	I	02-06-92	Indef.
ST92-2668	Panhandle Eastern Pipeline Co.	Tejas Hydrocarbons Co	02-28-92	G-S	100,000	N	I	02-07-92	Indef.
ST92-2669	Panhandle Eastern Pipeline Co.	North Canadian Marketing Corp.	02-28-92	G-S	50,000	N	I	02-01-92	Indef.
Below are 42 Initial Reports Noticed Out of Sequence. These Filings Required Additional Commission Review Time.									
ST92-1629	Tennessee Gas Pipeline Co.	Enserch Gas Co	01-02-92	G-S	100,000	N	I	12-02-91	Indef.
ST92-1630	Tennessee Gas Pipeline Co.	Cogen Energy Technology L.P.	01-02-92	G-S	13,900	N	I	12-06-91	Indef.
ST92-1631	Tennessee Gas Pipeline Co.	Commonwealth Gas Co	01-02-92	B	4,500	N	F	12-01-91	12-30-91.
ST92-1632	Williston Basin Inter. P/L Co.	Hiland Partners	01-02-92	G-S	72,900	Y	I	12-06-91	05-31-93.
ST92-1633	Williston Basin Inter. P/L Co.	O&R Energy, Inc	01-02-92	G-S	800,000	N	I	12-02-91	Indef.
ST92-1634	Transcontinental Gas P/L Corp.	Endevco Marketing Co	01-02-92	G-S	4,246,420	N	I	12-01-91	Indef.
ST92-1635	Transcontinental Gas P/L Corp.	Equitable Resources Marketing Co.	01-02-92	G-S	160,000	N	I	12-01-91	Indef.
ST92-1636	Transcontinental Gas P/L Corp.	Mobil Natural Gas, Inc	01-02-92	B	360,000	N	I	12-01-91	Indef.
ST92-1637	Transcontinental Gas P/L Corp.	Conoco, Inc	01-02-92	B	320,000	N	I	12-01-91	Indef.
ST92-1638	Transcontinental Gas P/L Corp.	Transco Energy Marketing Co.	01-02-92	G-S	500,000	A	I	12-04-91	Indef.
ST92-1639	Transcontinental Gas P/L Corp.	Elizabethtown Gas Co	01-02-92	B	1,900	N	F	12-02-91	07-31-06.
ST92-1640	Transcontinental Gas P/L Corp.	City of Union	01-02-92	B	100	N	F	12-04-91	06-29-05.
ST92-1641	Transcontinental Gas P/L Corp.	Consolidated Edison Co. of NY, Inc.	01-02-92	B	9,800	N	F	12-02-91	03-31-10.
ST92-1642	Transcontinental Gas P/L Corp.	Eastern Shore Natural Gas Co.	01-02-92	B	500	N	F	12-04-91	07-03-06.
ST92-1643	Transcontinental Gas P/L Corp.	Atlas Gas Marketing, Inc	01-02-92	G-S	1,500	N	F	12-10-91	10-31-92.

Docket number [1]	Transporter/seller	Recipient	Date filed	Part 284 subpart	Est. max. daily quantity [2]	Aff. Y/A/N [3]	Rate sch.	Date commenced	Projected termination date
ST92-1644	Transcontinental Gas P/L Corp.	Brooklyn Union Gas Co	01-02-92	B	4,100	N	F	12-01-91	07-31-11
ST92-1645	Transcontinental Gas P/L Corp.	Amoco Energy Trading Corp.	01-02-92	B	280,000	N	I	12-01-91	Indef.
ST92-1646	Transcontinental Gas P/L Corp.	Shell Gas Trading Co	01-02-92	B	500,000	N	I	12-01-91	Indef.
ST92-1647	Colorado Interstate Gas Co	Public Service Co of Colorado.	01-03-92	G-S	70,000	N	I	12-01-91	Indef.
ST92-1648	Panhandle Eastern Pipeline Co.	Gas Energy Development	01-03-92	G-S	10,000	N	I	12-07-91	Indef.
ST92-1649	Northwest Pipeline Corp	Chemstar Lime Co	01-03-92	G-S	2,500	N	I	12-14-91	Indef.
ST92-1650	United Gas Pipeline Co	Excel Gas Marketing, Inc	01-03-92	G-S	102,704	N	I	12-16-91	04-14-92.
ST92-1651	United Gas Pipeline Co	Arkla Energy Marketing Co	01-03-92	G-S	209,600	N	I	12-18-91	04-16-92.
ST92-1652	United Gas Pipeline Co	Goodrich Oil Co	01-03-92	G-S	78,600	N	I	12-13-91	04-11-92.
ST92-1653	United Gas Pipeline Co	Tristar Gas Co	01-03-92	G-S	24,628	N	I	11-19-91	03-18-92.
ST92-1654	United Gas Pipeline Co	Exxon Corp	01-03-92	G-S	104,800	N	I	12-16-91	04-14-92.
ST92-1655	Transcontinental Gas P/L Corp.	Tenngasco Corp	01-03-92	G-S	150,000	N	I	12-03-91	Indef.
ST92-1656	Transcontinental Gas P/L Corp.	Public Service Co. of NC. Inc.	01-03-92	B	4,200	N	F	12-04-91	07-31-11.
ST92-1657	Transcontinental Gas P/L Corp.	Gaslactic Corp	01-03-92	G-S	20,000	N	I	12-04-91	Indef.
ST92-1658	Transcontinental Gas P/L Corp.	Piedmont Natural Gas Co., Inc.	01-03-92	G-S	12,200	N	F	12-02-91	10-31-92.
ST92-1659	Northern Natural Gas Co	Entrade Corp	01-06-92	G-S	150,000	N	F/I	12-13-92	Indef.
ST92-1660	Northern Natural Gas Co	Amarillo Natural Gas, Inc	01-06-92	B	1,000	N	F/I	12-13-91	Indef
ST92-1661	Ozark Gas Transmission System.	Broad Street Oil & Gas Co	01-06-92	G-S	20,000	N	I	12-06-91	Indef.
ST92-1662	Ozark Gas Transmission System.	Triumph Gas Marketing Co	01-06-92	G-S	100,000	N	I	12-06-91	Indef.
ST92-1663	Ozark Gas Transmission System.	Tosco Corp	01-06-92	G-S	60,000	N	I	12-06-91	Indef.
ST92-1664	Tennessee Gas Pipeline Co	National Fuel Supply Corp	01-06-92	G	16,300	N	F	09-01-91	Indef.
ST92-1665	Tennessee Gas Pipeline Co	Tennegasco Corp	01-06-92	G-S	15,000	A	F	12-06-91	04-01-92.
ST92-1666	Tennessee Gas Pipeline Co	Superior Natural Gas Corp	01-06-92	G-S	50,000	N	I	12-11-91	Indef.
ST92-1667	Texas Eastern Transmission Corp.	Trinity Pipeline, Inc	01-06-92	G-S	200,000	N	I	11-22-91	Indef.
ST92-1668	Texas Eastern Transmission Corp.	Conoco, Inc	01-06-92	G-S	90,000	N	I	11-12-91	Indef.
ST92-1669	Texas Eastern Transmission Corp.	San Jacinto Gas Transmission Co.	01-06-92	G-S	140,000	N	I	11-13-91	Indef.
ST92-1670	Texas Eastern Transmission Corp.	Appalachian Gas Sales Corp.	01-06-92	G-S	10,000	N	I	11-08-91	Indef
ST92-1818	Transwestern Pipeline Co	Mock Resources, Inc	01-24-92	G-S	100,000	N	I	12-02-92	Indef.

[1] Notice of transactions does not constitute a determination that filings comply with commission regulations in accordance with order no. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/10/85).
[2] Estimated maximum daily volumes includes volumes reported by the filing company in MMBTU, MCF and DT.
[3] Affilation of reporting company to entities involved in the transaction. A "Y" indicates affiliation, an "A" indicates marketing affiliation, and a "N" indicates no affiliation.

[FR Doc. 92-9552 Filed 4-23-92: 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CP92-452-000, et al.]

Williams Natural Gas Company, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Williams Natural Gas Co.

[Docket No. CP92-452-000]

April 14, 1992.

Take notice that on April 10, 1992, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP92-452-000 a request pursuant to § § 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to use existing delivery facilities for purposes other than originally intended, under WNG's blanket certificate issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act (NGA), all as more fully set forth in the request that is on file with the Commission and open to public inspection.

WNG proposes to utilize, for any purpose-consistent with its tariffs, facilities which it states were installed to deliver natural gas transported under the provisions of section 311 of the Natural Gas Policy Act of 1978 (NGPA) to Farmers Chemical Company (Farmers), but which were never used. WNG states that the facilities consist of a tap and automated measuring and sampling equipment, and are located on WNG's Ringwood 16-inch pipeline in Garfield County, Oklahoma. WNG explains that Farmers requested this delivery point in 1989 for delivery of natural gas to be used in the production of nitrogen fertilizer. WNG states that, consistent with Farmers' request, a NGPA section 311 transportation agreement was executed and reported in Docket No. ST90-2599-000. Further, it is stated that the facilities were installed in June 1989 since the agreement provided for the Garfield County point as a proposed delivery point. WNG advises that Farmers has reimbursed it for the cost of the facilities, which amounted to $58,190.

WNG states that the NGPA section 311 transportation agreement was subsequently converted to NGA blanket certificate service on October 30, 1990, and service commenced as reported in Docket No. ST91-2017-000. WNG also states that at the time of conversion, the Garfield County delivery point was not included on Exhibit B to the agreement. WNG states that Farmers now is seeking to add this point to the

converted NGPA section 311 transportation agreement to allow Farmers receipt point flexibility in the future.

Comment date: May 29, 1992, in accordance with Standard Paragraph G at the end of this notice.

2. Brooklyn Union Gas Co.

[Docket No. CI92–38–000]

April 14, 1992.

Take notice that on April 2, 1992, Brooklyn Union Gas Company (Brooklyn) of One MetroTech Center, Brooklyn, New York 11201 filed an application pursuant to sections 4 and 7 of the Natural Gas Act (NGA) and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing it to make sales for resale in interstate commerce of gas subject to Commission NGA jurisdiction, including all NGPA categories of gas subject to Commission jurisdiction, gas purchased from interstate pipelines (including gas purchased under any existing or subsequently approved pipeline blanket certificate authorizing interruptible sales of surplus system supply (ISS gas)), gas released under permanent or limited term abandonment authorizations, gas released pursuant to Order Nos. 451 or 490, gas purchased from intrastate pipelines and LDC's, any imported natural gas, liquefied natural gas, and other natural gas subject to the Commission's NGA jurisdiction which is not presently required by certificate to be delivered to another purchaser, without rate restrictions, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: May 4, 1992, in accordance with Standard Paragraph J at the end of this notice.

3. El Paso Natural Gas Co.

[Docket No. CP92–449–000]

April 15, 1992.

Take notice that on April 9, 1992, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP92–449–000 a request pursuant to § § 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate facilities to permit El Paso to implement a new transportation delivery point to Southern Union Gas Company (Southern Union), under its blanket certificate issued in Docket No. CP82–435–000, pursuant to section 7(b) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso states it has provided sales service to Southern Union for resale to consumers situated in various communities and areas in the state of Texas under the terms of a service agreement dated February 1, 1971, as amended. El Paso indicates that effective September 1, 1991, Southern Union elected to convert its firm sales entitlements under its existing service agreements to firm transportation service under the provisions of El Paso's global settlement in Docket No. RP88–44–000, *et al.* It is stated that the transportation service is being provided under the terms of transportation agreement dated October 11, 1990, as amended. It is further stated that, as a part of its global settlement, El Paso's converting full requirements customers are permitted to request the addition of new delivery points, provided such facilities are economically justified.

El Paso states it received a written request from Southern Union for the delivery of natural gas at a new point on El Paso's interstate system. It is indicated that Southern Union has requested that El Paso install this new delivery tap at a point on El Paso's existing 24-inch O.D. Line from Benedum Junction to Keystone Mainline Station in Ector County, Texas. El Paso states that it has been advised that Southern Union requires the delivery of these quantities of natural gas to serve the fuel requirements of Quell Petroleum Service, Inc. (Quell) for use in an environmental reclamation project. It is stated that Quell would use natural gas to heat petroleum saturated soil to separate the petroleum from the soil.

El Paso states that in order to accommodate Southern's Union's request, it proposes to construct and operate one 2-inch tap and valve assembly, with appurtenances, at a point on its El Paso's existing 24-inch line from Benedum Junction to Keystone Mainline Station to be installed in Ector County, Texas at an estimated cost of $4,460. It is indicated that the volumes to be delivered at the proposed tap would be delivered at pressures of not more than 780 pounds per square inch gauge.

El Paso estimates annual and peak day volumes to the proposed facility during the third year of operation of 15,330 Mcf and 42 Mcf, respectively. El Paso states that the volumes would have a negligible effect upon its system's peak day and annual deliveries.

Comment date: June 1, 1992, in accordance with Standard Paragraph G at the end of this notice.

4. Mississippi River Transmission Corp.

[Docket No. CP92–447–000]

April 15, 1992.

Take notice that on April 8, 1992, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP92–447–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) to abandon a portion of a lateral line and a sales tap used for deliveries to PPG Industries, Inc. (PPG) in Jefferson County, Missouri, under MRT's blanket certificate issued in Docket No. CP82–489–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, MRT proposes to abandon in place 2,752 feet of 8-inch line (Line A–15) and to abandon by removal the sales tap used by MRT to make deliveries to PPG at PPG's Crystal City, Missouri, plant. It is stated that MRT was authorized to construct and operate the facilities in Docket No. G-291. It is explained that PPG has ceased operations at its Crystal City plant and plans to demolish the buildings on the site. It is further explained that PPG has requested MRT to remove its facilities from the site. It is asserted that no customers other than PPG are served by these facilities. It is stated that MRT will salvage the metering equipment and appurtenant facilities proposed for abandonment.

Comment date: June 1, 1992, in accordance with Standard Paragraph G at the end of this notice.

5. Williams Natural Gas Co.

[Docket No. CP92–451–000]

April 15, 1992.

Take notice that on April 10, 1992, Williams Natural Gas Company (Williams), P.O.. Box. 3288, Tulsa, Oklahoma, filed in Docket No. CP92–451–000 a request pursuant to § 157.205 of the Commission's Regulations for permission and approval to abandon the transportation of gas for a direct sale to OXY U.S.A., Inc. (OXY) and to reclaim measuring and regulating facilities located in Butler County, Kansas under Williams' blanket certificate issued in Docket No. CP82–479–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams proposes to abandon the transportation of gas for a direct sale to OXY for use at the OXY Koogler lease operation and to reclaim the measuring

and regulating facilities, which are all above ground, located in Butler County, Kansas. Williams states that the gas for this lease was provided pursuant to a storage lease agreement in Williams' Boyer storage field (Boyer). Williams received authorization to abandon Boyer in Docket No. CP91–1807–000 on October 21, 1991, it is stated. Williams states that, although the reclaim costs were included, it did not request the abandonment of this lease operation in the Boyer abandonment. Further, OXY has converted to electricity and has agreed, by letter on February 26, 1992, to the abandonment of the sale and facilities, it is indicated.

Comment date: June 1, 1992, in accordance with Standard Paragraph G at the end of this notice.

6. National Fuel Gas Supply Corp.; Tennessee Gas Pipeline Co.

[Docket No. CP92–441–000]

April 16, 1992.

Take notice that on April 3, 1992, National Fuel Gas Supply Corporation ("National"), 10 Lafayette Square, Buffalo, NY 14203 and Tennessee Gas Pipeline Company ("Tennessee"), P.O. box 2511, Houston, TX 77252, filed a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities that will permit National to provide firm natural gas transportation services in an aggregate maximum quantity of 68,830 Dth per day from the Niagara import point to various delivery points on National's pipeline system.

Specifically, National proposes to construct: (1) An additional 1,350 horsepower compressor unit at its existing compressor station at Concord, New York; and (2) an additional 720 horsepower compressor unit at its existing station at Lamont, Pennsylvania. National also proposes to increase the maximum allowable operating pressure of its Line X, Line Y–M 50 and a segment of its Line Y–M 2 between its Concord, New York compressor station and its Ellisburg, Pennsylvania compressor station from 960 psig to 1,084 psig in accordance with applicable regulations of the U.S. Department of Transportation. National states that while the proposed maximum allowable operating pressures of 1,084 psig is within the certificated limitation with regard to Lines X and Y–M 50, the effective certificate of public convenience and necessity applicable to Line Y–M 2 limits its operating pressure to 960 psig, and National therefore seeks authorization to increase the operating pressure of that segment to 1,084 psig. The total cost of the facilities proposed to be constructed by National is estimated to be $4,749,750. National will finance the cost of the proposed construction from funds on hand or to be obtained form its parent company, National Fuel Gas Company.

Pursuant to the request of National under the Niagara Spur Loop Line Construction and Ownership Agreement, Tennessee proposes to construct and operate 3,500 horsepower of new compression facilities at Tennessee's Station 230–C in Lockport, New York. Tennessee state's that the cost of its proposed facilities is estimated to be $8,458,000, inclusive of repayments National is required to make to the other co-owners of the Niagara Spur Loop Line to equalize the capital cost per Mcf-mile of all co-owners. National will reimburse Tennessee for the actual cost of the facilities to be constructed by Tennessee plus an allowance for funds used during construction.

In addition, National requests a waiver of Section 3.2 of National's FT Rate Schedule to the extent necessary to permit National to accept a letter of credit or alternative financial assurances acceptable to National from four shippers in an amount in excess of the cost of performing the service requested by each shipper for a three-month period. These four shippers, Encogen Four Partners, L.P., Fulton Cogeneration Associates, Falcon Seaboard Gas Company and Hadson Power Partners of Rensselaer have contracted for capacity associated with the facilities to be constructed by National and Tennessee. National states that the limited financial assurances permitted by Section 3.2 would not secure the cost of the facilities National would be required to construct to serve the shippers, and that the shippers fully support the request for waiver.

National also requests a waiver of the provisions of its FT Rate Schedule to the extent necessary to permit National to enter into a service agreement with one of its project shippers, Fulton Cogeneration Associates, which grants the shipper a unilateral right to extend the term of the service agreement. National states that such a waiver is appropriate in view of the contractual relationship between Fulton Cogeneration Associates and its steam host, and the long-term nature of the agreement between National and Fulton Cogeneration Associates.

Comment date: May 7, 1992, in accordance with Standard Paragraph F at the end of the notice.

7. Texas Gas Transmission Corp.

[Docket No. CP92–450–000]

April 16, 1992.

Take notice that on April 4, 1992, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP92–450–000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add a new delivery point to Western Kentucky Gas Company (WKG), under Texas Gas' blanket certificate issued in Docket No. CP82–407–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas proposes to add a new delivery point on Texas Gas' Glasgow 6-inch line in Barren County, Kentucky, which will enable WKG to render natural gas service to seventy-three existing and planned residences in the Shetland Hills residential area.

Texas Gas states that the maximum annual quantity of gas to be consumed at the new delivery point will be 2,400 MMBtu, with a maximum daily consumption of 25 MMBtu. It is further stated that this delivery point would not result in an increase in WKG's current daily contract demand and service to WKG would be accomplished without detriment to Texas Gas's other customers.

Comment date: June 1, 1992, in accordance with Standard Paragraph G at the end of this notice.

8. ANR Pipeline Co.

[Docket No. CP92–448–000]

April 16, 1992.

Take notice that on April 8, 1992, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed an application with the Commission in Docket No. CP92–448–000 pursuant to section 7(c) of the Natural Gas Act (NGA) for authorization to construct and operate 9.4 miles of 6-inch pipeline and appurtenant metering and regulating facilities in Randolph County, Indiana, in order to provide a new sales service to Ohio Valley Gas Corporation (OVGC), all as more fully set forth in the application which is open to public inspection.

ANR proposes to construct and operate 9.4 miles of 6-inch pipeline and appurtenant metering and regulating facilities in Randolph County at an estimated cost of $3,210,750. ANR would finance the construction of its proposed facilities with internally generated

funds. ANR would use these facilities to provide new sales service to OVGC under ANR's FERC Rate Schedule CD, which is pending before the Commission. ANR proposes to provide OVGC with 11,500 dekatherms of natural gas daily and 1,200,000 dekatherms annually for a term of at least seven years, beginning no later than November 1, 1992. OVGC would provide service to towns in the area of Winchester and Lynn, Indiana, upon completion of ANR's proposed facilities.

Comment date: May 7, 1992, in accordance with Standard Paragraph F at the end of this notice.

9. MCV Gas Acquisition General Partnership

[Docket No. CI92-39-000]

April 16, 1992.

Take notice that on April 10, 1992, MCV Gas Acquisition General Partnership (MCV) of 100 Progress Place, Midland, Michigan 48640 filed an application pursuant to sections 4 and 7 of the Natural Gas Act (NGA) and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for a limited-term blanket certificate with pregranted abandonment authorizing it to make sales for resale in interstate commerce of imported natural gas and gas purchased under any existing or subsequently approved pipeline blanket certificate authorizing interruptible sales for resale of surplus system gas (ISS gas), without rate restrictions, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: May 5, 1992, in accordance with Standard Paragraph J at the end of this notice.

10. Tennessee Gas Pipeline Co.

[Docket No. CP92-454-000]

April 17, 1992.

Take notice that on April 15, 1992, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed a request pursuant to §§ 157.205 and 157.212 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate a new delivery point for its existing firm sales customer, National Fuel Gas Supply Corporation (National Fuel), under Tennessee's blanket certificate issued in Docket No. CP82-413-000 on September 1, 1982, all as more fully set forth in the request on file with the Commission and open to public inspection.

Tennessee states that pursuant to National Fuel's request, it has agreed to establish a new delivery point at Camp Perry, Mercer County, Pennsylvania. According to Tennessee, the new delivery point is required to provide flexibility on National Fuel's system. It is further stated that all costs associated with the construction of the proposed new delivery point would be borne by National Fuel. Tennessee states that the quantity of gas to be delivered to the new delivery point for part of National's system supply is up to 179,300 Dth per day.

Tennessee states that it does not propose to increase or decrease the total daily and/or annual quantities it is authorized to deliver to National Fuel. Tennessee asserts that the establishment of the proposed new delivery point is not prohibited by Tennessee's currently effective tariff and that it has sufficient capacity to accomplish the deliveries at the proposed new delivery point without detriment or disadvantage to any of Tennessee's other customers.

Comment date: June 1, 1992, in accordance with Standard Paragraph G at the end of this notice.

11. Northwest Pipeline Corp.

[Docket No. CP92-336-001]

April 17, 1992.

Take notice that on April 9, 1992, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah, 84158, filed in Docket No. CP92-336-001, an amendment to its request for approval, pursuant to 18 CFR §§ 157.205 and 157.211, to construct and operate a new meter station, to be named the SIPI Meter Station, at its Sumas Compressor Station site in Whatcom County, Washington. The amendment simply reflects a downsize in the originally proposed design capacity of the new meter station from 350,000 to 260,000 MMBtu per day. The SIPI Meter Station still will be operated to deliver transportation gas to, and receive transportation gas from, the Sumas-Huntington Interconnect Pipeline System (SHIPS) under various authorized transportation agreements with BC Gas Inc. (BC Gas) and other shippers; all as more fully set forth in the request that is on file with the Commission and is open to public inspection.

Northwest states that the proposed new meter station has been redesigned at the request of BC Gas, to receive or deliver up to approximately 260,000 MMBtu per day at the interconnect with SHIPS. The station now will include three 12-inch turbine meters, six 24-inch switching valves, approximately 1,800 feet of 24-inch pipe, various control valves and other appurtenances. To allow the station to convey the required gas volumes under all anticipated operational conditions, the meter station will be connected both to the suction side and the discharge side of Northwest's Sumas Compressor Station. The meter station still will be located on a 90 foot site within Northwest's Sumas Compressor Station yard in Section 36, Township 41 North, Range 4 East, Whatcom County, Washington, at milepost number 1484.7 on Northwest's mainline transmission system.

Northwest estimates the cost of the proposed SIPI Meter Station will be $2,285,711. Since the estimated incremental annual revenues to be generated by the service to this meter station will exceed the estimated incremental cost of service for the proposed facilities, Northwest will install the SIPI Meter Station at its own expense pursuant to the facilities reimbursement provisions of its transportation tariff.

Comment date: May 8, 1992, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public

convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR §§ 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 92-9592 Filed 4-23-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 11033-002-Vermont]

Chace Mill Hydro Watt Associates; Surrender of Preliminary Permit

April 20, 1992.

Take notice that Chace Mill Hydro Watt Associates, permittee for the Chace Mill Project, located on the Winooski River in the Cities of Burlington and Winooski, Chittenden County, Vermont, has requested that its preliminary permit be terminated. The preliminary permit was issued on March 8, 1991, and would have expired on February 28, 1994. The permittee has dissolved its partnership.

The permittee filed the request on March 3, 1992, and the preliminary permit for Project No. 11033 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 92-9554 Filed 4-23-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[Docket No. FE C&E 92-05; Certification Notice—98]

Filing Certification of Compliance: Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (FUA section 201(a), 42 U.S.C. 8311(a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. One owner and operator of a proposed new electric base load powerplant has filed a self-certification in accordance with section 201(d).

Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION:

The following company has filed a self-certification:

Name	Date received	Type of facility	Megawatt capacity	Location
Hadson Power Partners of Rensselaer, Fairfax, VA	04-15-92	Combined Cycle	79	Rensselaer, NY

Amendments to the FUA on May 21, 1987 (Pub. L. 100–42), altered the general prohibitions to include only new electric base load powerplants and to provide for the self-certification procedure.

This self-certification may be reviewed in the Office of Fuels Program, Fossil Energy, Room 3F–056, FE–52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, or for further information call Myra Couch at (202) 586–6769.

Issued in Washington, DC, on April 20, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–9626 Filed 4–23–92; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4126–3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces OMB responses to Agency PRA clearance requests.

SUPPLMENTARY INFORMATION:

OMB Responses to Agency PRA Clearance Requests

OMB Approvals

EPA ICR #0370.11; Underground Injection Control Program Information; was approved 02/04/92; OMB #2040–0042; expires 03/31/95.

EPA ICR #1579.03; Modifications to the Wood Preserving Rule; was approved 02/25/92; OMB #2050–0115; expires 02/28/95.

EPA ICR #1381.03; Recordkeeping/ Reporting Requirements for Compliance with the 40 CFR part 258 Solid Waste Disposal Facility Criteria; was approved 03/04/92; OMB #2050–0122; expires 03/31/95.

EPA ICR #0959.07; Facility Ground Water Monitoring Requirements; was approved 02/25/92; OMB #2050–0033; expires 02/28/95.

EPA ICR #0318.04; Estimate of Municipal Wastewater Treatment Facility Requirements for the Needs Survey; was approved 03/03/92; OMB #2040–0050; expires 02/28/93.

EPA ICR #1359.03; RCRA Financial Responsibility Requirements for Underground Storage Tanks; was approved 03/12/92; OMB #2050–0066; expires 03/31/95.

EPA ICR #1603.01; Lead-Based Paint Abatement and Repair and Maintenance Study in Baltimore; was approved 03/25/92; OMB #2070–0123; expires 03/31/95.

EPA ICR #0229.07; NPDES Discharge Monitoring Report; was approved 03/27/92; OMB #2040–0004; expires 10/31/94.

EPA ICR #1287.03; National Operations and Maintenance Excellence Awards Program Questionnaire; was approved 03/18/92; expires 03/31/95.

EPA ICR #0186.06; NESHAP for Vinyl Chloride (Subpart F)—Information Requirements; was approved 03/24/92; OMB #2060–0071; expires 03/31/94.

EPA ICR #1599.01; New Jersey Statewide Survey on Wastewater Issues and Costs; was approved 03/25/92; OMB #2030–0029; expires 09/30/93.

EPA ICR #0261.08; Notification of Hazardous Waste Activity; was approved 03/30/92; OMB #2050–0028; expires 09/30/92.

EPA ICR #0262.04; RCRA Hazardous Waste Permit Application and Modification; was approved 03/30/92; OMB #2050–0034; expires 09/30/92.

EPA ICR #1571.01; General Hazardous Waste Facility Standards; was approved 03/30/92; OMB #2050–0120; expires 09/30/92.

EPA ICR #1573.01; Part B Permit Application, Permit Modifications and Special Permits; was approved 03/30/92; OMB #2050–0009; expires 09/30/92.

EPA ICR #1189.04; Identification Listing and Rulemaking Petitions; was approved 04/06/92; OMB #2050–0053; expires 04/30/95.

EPA ICR #1488.02; Superfund Site Evaluation and Hazardous Ranking System; was approved 04/09/92; OMB #2050–0095; expires 04/30/95.

OMB Conditional Approval

EPA ICR #1602.01; Maximum Achievable Control Technology Standards Development Under title III (Section 112) of the Clean Air Act Regulatory Development Program; was approved 03/20/92; OMB #2060–0239; expires 03/31/95. This collection of information received a conditional approval from OMB. For a copy of the notice containing the condition for the approval, please call Sandy Farmer on (202) 260–2740.

OMB Extensions of Expiration Dates

EPA ICR #0795; Section 12 (B) Notification of Chemical Exports; expiration date extended to 05/31/92.

EPA ICR #1495; FIFRA Reregistration Fees; expiration date extended to 07/31/92.

EPA ICR #0226; NPDES Regulations: Storm Water Discharges; expiration date extended to 08/31/92.

EPA ICR #0029; Modification/ Variance for Permit to Discharge Wastewater and Associated Regulations; expiration date extended to 08/31/92.

Dated: April 17, 1992.

David Schwarz,

Acting Director Regulatory Management Division.

[FR Doc. 92–9590 Filed 4–23–92; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4128–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 6, 1992 through April 10, 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 10, 1992 (57 FR 12499).

Draft EISs

ERP No. D–AFS–J65188–MT Rating LO1, Smeads-Rice Timber Sale, Implementation, Kootenai National Forest, Cabinet Ranger District, Sanders County, MT.

Summary

EPA had no objection to the Forest Service's preferred alternative, alternative 8. EPA also suggested that adequate protection be provided for the large pond and wet marsh region within the project area.

ERP No. D–AFS–L65161–WA Rating EC2, Withrow Timber Sale, Implementation, Wenatchee National Forest, Naches Ranger District, Yakima County, WA.

Summary

EPA had environmental concerns based on the potential for adverse air quality effects to a Class I airshed, removal of habitat of a Federally listed threatened species (Northern Spotted Owl), and the potential for adverse effects to water quality and fish habitat. Additional documentation of the section 7 consultation requirement of the Endangered Species Act is needed.

Additional information is requested on whether state water quality standards will be violated, to describe project monitoring and the effectiveness of mitigation measures and describe and fully evaluate cumulative effects.

ERP No. D–BLM–J65187–UT Rating EO2, Diamond Mountain Resource Area, Resource Management Plan, Implementation, Daggett, Duchesne and Uintah Counties, UT.

Summary

EPA had environmental objections with the proposed project that include impacts such as serious surface and ground water quality problems, wetlands impacts and cumulative impacts. Additionally, concentration of selenium and boron above state standards from irrigation return flows may be exacerbated by BLM's management. The final EIS should address these concerns by providing the necessary data and analysis.

ERP No. D–BLM–J67013–MT Rating EC2, Billings/Power River/South Dakota Resource Area, Oil and Gas Resource Management Plan Amendment, Leasing and Development, Mile City District, MT and SD.

Summary

EPA is pleased with the BLM alternative D which placed a high degree of protection on the Meeteetse Spires Outstanding Natural Area and Weatherman Draw Rock Art Complex. EPA expressed environmental concerns with the rest of the document because it lacks a discussion of cumulative impacts, site-specific and broad scale monitoring, baseline data, potential impacts to biodiversity and aquatics, water disposal discussion, ground water evaluation and protection.

Final EISs

ERP No. F–AFS–L67028–AK, Kensington Venture Underground Gold Mine Project, Development, Construction and Operation, Operating Plan Approval, NPDES, section 10 and 404 Permits, Tongass National Forest, Sherman Creek, City of Juneau, AK.

Summary

EPA had environmental concerns regarding the proposed project's potential downstream impacts resulting from eroded tailings following reclamation, unavoidable direct riparian habitat losses resulting from construction of the tailings pond, and the indirect cumulative effects associated with the project in conjunction with other mining projects in the Juneau area.

ERP No. F–FHW–L40171–OR, I–84 Widening, NE. 181st Avenue to Sandy River, Funding and 404 Permit, Multnomah County, OR.

Summary

EPA had no objections to the preferred alternative as described. The final EIS have adequately responded to the concerns EPA raised in the comments on the draft and supplemental draft EISs.

ERP No. F–SCS–C36067–NY, Beaver Brook Watershed Flood Control Plan, Funding and Implementation, Herkimer County, NY.

Summary

EPA had no objections to the implementation of the proposed project based on a review of the final EIS.

Regulations

ERP No. R–NSF–A99193–00, 45 CFR part 641—Environmental Assessment Procedure for Proposed National Science Foundation Actions in US Antarctica Program, Proposed Rule; (57 FR. 7355).

Summary

EPA is pleased that the procedures described in the proposed rule appear to more closely reflect the provisions of E.O. 12114. EPA expressed concerns in the context of whether the proposed rule embodies all of the relevant requirements of the Protocol, and recommended that NSF provide clarification on several sections of the proposed rule. Published FR–04–17–92—Summary Paragraph corrected.

Dated: April 21, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92–9582 Filed 4–23–92; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–1128–1]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075.

Availability of Environmental Impact Statements Filed April 13, 1992 Through April 17, 1992 Pursuant to 40 CFR 1506.9.

EIS No. 920127, Final EIS, FHW, NC, West Charlotte Outer Loop Construction, I–77 South near Westinghouse Boulevard to NC–27, Funding and section 404 Permit, Mecklenburg County, NC, Due: May 26, 1992, Contact: Nicholas Graf (919) 856–4346.

EIS No. 920128, Final EIS, FHW, NC, North Charlotte Outer Loop Construction, NC–27/Mount Holly Road to I–85 near the US 29 Connector, Funding and Section 404 Permit, Mecklenburg County, NC, Due: May 26, 1992, Contact: Nicholas Graf (919) 856–4346.

EIS No. 920129, DRAFT EIS, FHW, CA, CA–17 at Lexington Reservoir Interchange Project, Interchange and Frontage Roads Construction, south of the Town of Los Gatos, Funding and Section 404 Permit, Santa Clara County, CA, Due: June 10, 1992, Contact: John Schultz (916) 551–1314.

EIS No. 920130, Final EIS, GSA, VA, US Navy Systems Commands Consolidation, Office Complex Construction and Rehabilitation Site Selection, Eisenhower Avenue, Van Dorn or Crystal City, City of Alexandria or Arlington County, VA, Due: May 26, 1992, Contact: George Chandler (202) 708–5334.

EIS No. 920131, Final Supplement, COE, AR, Lakes Greeson, Ouachita and DeGray Operation and Maintenance, Updated Information, Lake Greeson/Little Missouri River Water Quality Improvement and Fishery Enhancements, Pike County, AR, Due: May 26, 1992, Contact: Julie B. Marcy (601) 631–5302.

Dated: April 21, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92–9583 Filed 4–23–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4126–2]

Clean Air Act Advisory Committee; Meeting

SUMMARY: On November 8, 1990, the U.S. Environmental Protection Agency (EPA) gave notice of the establishment of a Clean Air Act Advisory Committee (CAAAC) (55 FR 46993). This Committee was established pursuant to the Federal Advisory Committee Act (5 U.S.C. app I) to provide advice to the Agency on policy and technical issues related to the development and implementation of the requirements of the Clean Air Act Amendments of 1990.

OPEN MEETING DATE: Notice is hereby given that the Clean Air Act Advisory Committee will hold an open meeting on May 27, 1992 from 8:30 a.m. to 4:30 p.m., at the J.W. Marriott Hotel, 1313 Pennsylvania Avenue, NW., Washington, DC. Seating will be available on a first come, first served basis.

The meeting will discuss issues related to implementation flexibility and market-based strategies for the Clean Air Act. A presentation on the new marketable permit program for the South Coast California area will be made. In addition, a review of the status of Clean Air Act rulemaking will be presented.

INSPECTION OF COMMITTEE DOCUMENTS: Documents relating to the above noted topics will be publicly available at the meeting. Thereafter, these documents, together with the CAAAC meeting minutes will be available for public inspection in EPA Air Docket No. A–90–39 in room 1500 of EPA Headquarters 401 M Street, SW., Washington, DC. Hours of inspections are 8:30 a.m. to 12 noon and 1:30 to 3:30 p.m. Monday through Friday.

FOR FURTHER INFORMATION: Concerning this special meeting of the CAAAC please contact Mr. Paul Rasmussen, Office of Air and Radiation, US EPA (202) 260–7430, FAX (202) 260–4185, or by mail at US EPA, Office of Program Management Operations (ANR–443), Office of Air and Radiation, Washington, DC 20460.

Dated: April 16, 1992.

Thomas Kiernan,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 92–9591 Filed 4–23–92; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036 (202) 452–1422. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on these information collections should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0316

Title: Section 76.305, Records to be maintained locally by cable system operators for public inspection

Action: Revision

Respondents: State or local governments and businesses or other for-profit (including small businesses)

Frequency of Response: Recordkeeping requirement

Estimated Annual Burden: 10,704 recordkeepers; 18.23 hours average burden per recordkeeper; 195,134 hours total annual burden

Needs and Uses: Section 76.305 requires cable television systems having 1,000 or more subscribers to maintain a public inspection file containing certain records. These records are required to be kept in accordance with Section 76.205, 76.221, 76.79, 76.95 and 76.225. Section 76.225(c) requires cable operators to maintain records sufficient to verify compliance with commercial limits. This section would require *all* cable systems (which would include systems with less than 1,000 subscribers) to maintain records. On 2/13/92, the Commission adopted a Report and Order, MM Docket No. 91–169, Cable Television Technical and Operational Requirements. This action will revise Section 76.305 by requiring cable operators to maintain records in accordance with Section 76.601 (performance tests) which will increase the burden by 0.25 hours per week. Local public officials will examine these records more frequently than in the past to ensure compliance with technical standards and that quality services is being provided to subscribers.

OMB Number: 3060–0289

Title: Section 76.601, Performance tests

Action: Revision

Respondents: State or local governments and businesses or other for-profit (including small businesses)

Frequency of Response: Recordkeeping requirement

Estimated Annual Burden: 10,704 recordkeepers; 27.73 hours average burden per recordkeeper; 296,822 hours total annual burden

Needs and Uses: On 6/13/91, the Commission adopted a Notice of Proposed Rulemaking, MM Docket No. 91–169, Cable Television Technical and Operational Requirements which set forth proposals for updating the Commission's technical standards for cable television systems. On 9/3/91, the OMB approved the new requirements proposed in Section 76.601. This proposal revised § 76.601 by expanding the annual proof of performance tests to encompass new standards with an increase in burden of 30 hours per cable operator. In addition, the NPRM required each cable system to maintain a current listing of the cable television channels which it delivers to its subscribers. On 2/13/92, the Commission adopted a Report and Order, MM Docket No. 91–169, Cable Television Technical and Operational Requirements. In this R&O, the Commission modified its initial proposals by requiring semi-annual proof of performance and by requiring that color testing be performed once every 3 years (thereby reducing the burden). Additional burdens adopted in this R&O include basing the number of test points on system upon the number of subscribers on system (instead of the proposed 3 test points) and number of channels to be tested would be based on frequency limit of the cable plant. Section 76.601 will now require every cable system operator to maintain a current listing of the cable television channels which that system delivers to its subscribers. Section 76.601 (c) and (d) will require cable systems with over 1,000 subscribers to conduct semi-annual proof of performance tests and triennial proof of performance tests for color testing.

OMB Number: None

Title: Section 76.607, Resolution of complaints

Action: New collection

Respondents: State or local governments and businesses or other for-profit (including small businesses)

Frequency of Response: Recordkeeping requirement

Estimated Annual Burden: 10,704 responses, 1 hour average burden per response; 10,704 recordkeepers, 26 hours average burden per recordkeeper, 289,008 total annual burden

Needs and Uses: On 2/13/92, the Commission adopted a Report and Order, MM Docket No. 91–169, Cable Television Technical and Operational Requirements. This action added Section 76.607, which requires cable system operators to advise subscribers at least once each calendar year of the procedures for resolution of complaints. There will be a one time burden of 1.0 hours per cable system to prepare the notice. This section also requires that records be maintained on all subscriber complaints. The Commission envisions that this estimate will decrease as system performance improves. The data is used by local franchising authorities to assess a cable television systems' performance and to ensure that quality service is being provided to subscribers.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-9577 Filed 4-23-92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010776-066.

Title: Asia North America Eastbound Rate Agreement.

Parties:

American President Lines, Ltd.,
Kawasaki Kisen Kaisha, Ltd.,
A.P. Moller-Maerski Line,
Mitsui O.S.K. Lines, Ltd.,
Neptune Orinet Lines, Ltd.,
Nippon Yusen Kaisha Line,
Orient Overseas Container Line,
Sea-Land Service, Inc.

Synopsis: The proposed amendment clarifies article 6.4 of the Agreement with respect to the formation of committees. It also modifies article 4 of appendix B to enable the Executive Committee to grant binding authority to the Trade Liaison Committee.

Dated: April 20, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-9538 Filed 4-23-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Banc One Corporation, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 18, 1992.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Banc One Corporation, Columbus, Ohio; to engage *de novo* through its wholly-owned subsidiary, Banc One Capital Corporation, Columbus, Ohio, in making, acquiring, and/or servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. National Banking Corp., North Little Rock, Arkansas; to engage *de novo* in performing real estate appraisal services for residential and commercial loans under the $100,000 de minimis level recently set by all regulatory authorities, pursuant to § 225.25(b)(13) of the Board's Regulation Y.

2. W. B. T. Holding Company, Memphis, Tennessee; to engage *de novo* in making residential mortgages and secured commercial loans, pursuant to § 225.25(b)(1)(iii) and (iv) of the Board's Regulation Y.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Tampa State Bancshares, Inc., Tampa, Kansas; to engage *de novo* in direct lending activities as a result of acquisition of existing loans from a subsidiary bank, pursuant to § 225.25(b)(1) of the Board's Regulation Y. **Comments on this application must be received by May 16, 1992.**

Board of Governors of the Federal Reserve System, April 20, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-9571 Filed 4-23-92; 8:45 am]

BILLING CODE 6210-01-F

North American Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 18, 1992.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. North American Bancorp, Inc., Pittsburgh, Pennsylvania; to become a bank holding company by acquiring 100

percent of the voting shares of North Side Deposit Bank, Pittsburgh, Pennsylvania.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. First Southeast Missouri Bancorporation, Inc., Scott City, Missouri; to merge with Exlanco, Inc., Marble Hill, Missouri, and thereby indirectly acquire Security Bank of Bollinger County, Marble Hill, Missouri.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. United Bancorporation of Wyoming, Jackson, Wyoming; to acquire 100 percent of the voting shares of The State Bank West, Jackson, Wyoming, a proposed *de novo* bank.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Central Delaware Financial Bancorp, Inc., Dover, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of Lorena State Bank, Lorena, Texas.

2. Central Financial Bancorp, Inc., Lorena, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Central Delaware Financial Bancorp, Inc., Dover, Delaware, and thereby indirectly acquire Lorena State Bank, Lorena, Texas.

Board of Governors of the Federal Reserve System, April 20, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-9572 Filed 4-23-92; 8:45 am]

BILLING CODE 6210-01-F

SouthTrust Corporation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than May 18, 1992.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. SouthTrust Corporation, Birmingham, Alabama, SouthTrust of Florida, Inc., Tampa, Florida, and SouthTrust of Northwest Florida, Inc., Marianna, Florida; to acquire First Federal Enterprises, Inc., Marianna, Florida, and thereby indirectly acquire First Federal Savings Bank, Marianna, Florida. First Federal Savings Bank will then be merged with and into SouthTrust of Northwest Florida's bank subsidiary, SouthTrust Bank of Northwest Florida, Marianna, Florida, pursuant to section 5(d)(3) of the Federal Deposit Insurance Act, as amended by the Federal Deposit Insurance Corporation Improvement Act of 1991.

Board of Governors of the Federal Reserve System, April 20, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-9573 Filed 4-23-92; 8:45 am]

BILLING CODE 6210-01-F

Brian R. Wright, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 14, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Brian R. Wright, Vestal, New York; to acquire an additional 23.9 percent, for a total of 25.46 percent, of the voting shares of The Wilber Corporation, Oneonta, New York, and thereby indirectly acquire Wilber National Bank, Oneonta, New York.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Clifford J. Neese, Gonzales, Louisiana; to acquire an additional 10 percent, for a total of 14.50 percent, of the voting shares of Bank of Gonzales Holding Company, Inc., Gonzales, Louisiana, and thereby indirectly acquire Bank of Gonzales, Gonzales, Louisiana.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Paul L. Swenson; to acquire an additional 5.19 percent, for a total of 22.81 percent, of the voting shares of IT & S of Iowa, Inc., Oskaloosa, Iowa, and thereby indirectly acquire Iowa Trust and Savings Bank, Oskaloosa, Iowa.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Larry Neil Boatright, Keyesport, Illinois, Paul Richard Bunyard, Greenville, Illinois, George Burnside Johnston, Carlyle, Illinois, and William Allen Meyer, Keyesport, Illinois; acting in concert to acquire 56.3 percent, for a total of 93.56 percent, of the voting shares of Keyesport Bancshares, Inc., Keyesport, Illinois, and thereby indirectly acquire State Bank of Keyesport, Keyesport, Illinois.

E. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Gordon Dobberstein, Gary, Minnesota; to acquire an additional 19.02 percent, for a total of 29.83 percent, of the voting shares of Oppegard Agency, Inc., Moorhead, Minnesota, and thereby indirectly acquire Twin Valley State Bank, Twin Valley, Minnesota, and American State Bank of Erskine, Erskine, Minnesota.

2. Lowell Moen, Gary, Minnesota; to acquire an additional 19.02 percent, for a total of 29.83 percent, of the voting shares of Oppegard Agency, Inc., Moorhead, Minnesota, and thereby indirectly acquire Twin Valley State Bank, Twin Valley, Minnesota, and American State Bank of Erskine, Erskine, Minnesota.

F. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. James D. Leake, Dallas, Texas; to acquire 100 percent of the voting shares of Pedernales Investment Corporation, Johnson City, Texas, and thereby indirectly acquire Johnson City Bank, Johnson City, Texas.

Board of Governors of the Federal Reserve System, April 20, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–9575 Filed 4–23–92; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Announcement Number 216]

Availability of Fiscal Year 1992 Funds for the Implementation of HIV Early Intervention Service Network Demonstration Projects by Local Health Departments

Introduction

The Centers for Disease Control (CDC), the Nation's Prevention Agency, in cooperation with the Health Resources and Services Administration (HRSA), Bureau of Health Care Delivery and Assistance (BHCDA), announces the availability of cooperative agreement funds to develop and implement human immunodeficiency virus (HIV) early intervention service network demonstration projects by local health departments. HIV early intervention service network demonstration projects were previously funded, in fiscal year (FY) 1991, through supplements to the HIV prevention cooperative agreements to state, territorial, and local health departments. In FY 1991, CDC, in cooperation with HRSA, awarded supplemental funds to local health departments in each of seven metropolitan statistical areas (MSAs)—Chicago, Houston, Los Angeles, New York City, Philadelphia, San Francisco, and Washington, DC.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and morality and improve the quality of life. This announcement is related to the priority areas of HIV Infection and Clinical Preventive Services. (For ordering a copy of Healthy People 2000, see the section Where to Obtain Additional Information).

Authority

This program is authorized under the Public Health Service Act (PHS Act), section 301(a) [42 U.S.C. 241(a)], as amended; section 317(k) [42 U.S.C. 247b(k)], as amended; and title XXVI, part C, as amended.

Eligible Applicants

Eligible applicants are local health departments in MSAs that received supplements entitled "CARE Provisions Implementation Demonstration" to their HIV prevention cooperative agreements in FY 1991. (Chicago, Houston, Los Angeles, New York City, Philadelphia, San Francisco, and Washington, DC.)

Availability of Funds

Approximately $2,850,000 will be available in FY 1992 to fund up to 7 cooperative agreements to further develop and implement HIV early intervention service network demonstration projects. Funds are expected to be awarded on or about May 1, 1992, for a 12-month budget period within a 2-year project period. Funding estimates are subject to change based on the actual availability of funds for these activities in FY 1992 and on the number of applicants competing successfully for funds.

Purpose

The purpose of the HIV Early Intervention Service Network Demonstration Projects Program is to provide the funded cities with the opportunity to further develop and refine implementation of HIV early intervention service network demonstration projects that can serve as models for expansion in the local area and for establishing similar networks by other state, territorial, and local health departments. The funds will be used to provide preventive, diagnostic, clinical, and therapeutic services for persons with HIV infection and their families and may in addition be used to establish or strengthen referral and case management systems for early intervention services.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for conducting activities under I below, and CDC will be responsible for conducting activities under II below.

I. Recipient Activities

The local health departments will define the service area and select the service facilities that will be included in each service network. Priority should be given to facilities that currently provide HIV prevention or early intervention services, especially those that are funded by HRSA and local health departments. Recipients should also make an effort to involve drug treatment centers and related Agency for Drug Abuse and Mental Health Administration (ADAMHA) funded recipients. Attention should be given to selecting facilities that are in close proximity to each other and accessible by public transportation.

The HIV early intervention service networks shall consist of the following components:

- Publicly-supported HIV counseling and testing sites to include at least one of each of the following:

—A free-standing HIV counseling and testing center;
—A sexually transmitted diseases (STD) clinic;
—A tuberculosis (TB) clinic;
—A drug treatment center (DTC) or substance abuse clinic; and
—A women's health clinic, e.g., family planning clinic, perinatal clinic, etc.

- Primary health care providers
- Case management providers

Initial counseling and HIV testing services, case management and follow-up preventive, diagnostic, clinical, and therapeutic services may be provided by any of the facilities within the network, depending on local capabilities and needs. The health department will provide oversight to ensure that HIV early intervention services are accessible to all persons within the network found to be HIV-infected. Data systems to document the clients served and services provided are essential and can be supported with programmatic funds.

HIV early intervention services will be provided by the network either through the health department directly or under an agreement with other public or nonprofit private providers. For the

purposes of this program announcement, HIV early intervention services are defined as follows:

- Counseling individuals with respect to HIV infection
- Testing individuals with respect to HIV infection, including tests to confirm the presence of the infection, diagnose the extent of the deficiency in the immune system, and provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and preventing and treating conditions arising from the disease
- Developing or strengthening a referral system that assures access to necessary services. This should include, but not be limited to, primary health care providers and entities being funded under title XXVI, part A, of the PHS Act (service programs in the 18 most heavily impacted cities), Part B (service programs through states), and part C (categorical grants); and to biomedical research facilities of institutions of higher education that offer experimental treatment for such disease, or community-based organizations or other entities that provide such treatment
- Developing or strengthening a case management system to provide coordination in the provision of health care services to individuals with HIV infection and their families and review the extent of utilization of the services by the individuals (optional under title XXVI, section 2651(b)(5), of the PHS Act)
- Assisting individuals with HIV infection to establish their eligibility for financial assistance and services under Federal, state, or local programs providing health services, mental health services, social services, or other appropriate services (optional under title XXVI, section 2651(b)(5) of the PHS Act)
- Providing other clinical and diagnostic services regarding HIV disease, and periodic medical evaluations of individuals with HIV infection
- Providing other necessary HIV prevention services (e.g., individual or HIV-discordant couples counseling to promote initiation/maintenance of safer sexual behaviors or referrals to substance abuse treatment facilities)
- Providing therapeutic measures for preventing and treating deterioration of the immune system and preventing and treating conditions arising from the disease. Each HIV early intervention service network should provide, at a minimum, to all clients within the network with HIV infection, as appropriate:

—Complete physical examination, including neurologic evaluation, pediatric examination, and gynecologic examination for women;
—Laboratory evaluation of CD4+ lymphocytes and other necessary tests of immune system function;
—Early administration of prophylactic treatment for *Pneumocystis carinii* pneumonia and other opportunistic infections in accordance with PHS recommendations;
—Hepatitis B, *Haemophilus influenzae* type b, and pneumococcal screening and vaccinations according to the Advisory Committee on Immunization Practices (ACIP) recommendations;
—Diagnosis and treatment of STDs, particularly those diseases which produce genital ulcers; STD diagnosis and treatment should be in accordance with CDC guidelines and should include partner notification services;
—Family planning services, including appropriate risk reduction HIV counseling and testing services, to women who are either HIV-infected or who are sex/needle-sharing partners of HIV-infected individuals;
—Screening and therapy for tuberculosis, including Mantoux TB skin testing, preventive therapy, and treatment, according to the recommendations of the Advisory Council for the Elimination of Tuberculosis (ACET) and CDC guidelines and recommendations for the diagnosis, prevention, and treatment of TB; and
—Primary care for HIV infection, according to BHCDA, HRSA recommendations.

In addition to the above services, the program can provide other services on an optional basis where they can be shown to be essential to HIV early intervention, including:

- Educational services to clients who may have HIV infection, or may be at risk of infection, or who may be unaware of the availability and potential benefits of early treatment of infection.
- Outreach to health care professionals who may be unaware of such availability and potential benefits.

Referrals for other services such as essential mental health services, psychological and psychiatric evaluation and counseling, and follow up counseling for individuals with HIV infection and their families can be provided.

The grantee must show evidence of collaboration with local planning councils involved with implementing title XXVI, part A of the PHS Act and with HIV care consortia involved with implementing part B of the CARE Act, where applicable.

II. CDC Activities

A. Provide consultation and scientific and technical assistance in planning, operating, assessing, analyzing, and evaluating HIV early intervention service networks, including the selection of service facilities that will be included in the service network.

B. Provide, in consultation with local health departments:

1. An assessment of training needs;
2. A determination of how best to meet those training needs; and
3. Support of implementation through direct training or technical assistance for health department trainers.

C. Provide up-to-date scientific information regarding risk behaviors for HIV infection, preventive measures, and program strategies for prevention of HIV infections.

D. Develop, refine, and disseminate HIV prevention program information which describes model programs and effective methods to carry out program activities and monitor progress.

E. Assist in the assessment of program operations at the network sites and evaluation of the overall effectiveness of program efforts including the impact on behavior of individual behavior change interventions.

F. Provide: 1. A national performance evaluation program for laboratories performing the following tests:

a. Enzyme immunoassay (EIA), Western blot, and indirect immunofluorescence (IIF) tests for HIV-1 antibody; and

b. CD4+ cell tests to monitor immune status.

2. Laboratory training that includes current scientific/technical and quality assurance information about the tests used in diagnosing and monitoring HIV infection.

Review and Evaluation Criteria

Each application will be evaluated individually according to the following criteria (Maximum 70 points):

A. Documented, continued need for the program. (10 points)

B. Progress in developing the HIV early intervention service network in the period May 1, 1991 through January 30, 1992. Identification of those components recruited to participate in the network during the above time period and a brief description of each component's role within the network, including the numbers and demographics of clients served by each component of the

network in the above time period. (30 points)

C. Quality of the plan to ensure completion/continuation of the HIV early intervention service network, including written evidence of commitment by collaborators to the establishment/maintenance of the network (e.g., contracts, letters of understanding, service agreements). (20 points)

D. Program management by the local health department, including proposed organizational structure, size, qualifications, and time allocation of proposed management staff. (10 points)

In addition, consideration will be given to the extent to which the budget is reasonable, clearly justified, and consistent with the intended purpose of the program.

Other Requirements

Recipients must comply with the document titled Content of HIV/Aids-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions. A copy is included in the application kit.

Recipients are prohibited from using funds under section 422 of the CARE Act [42 U.S.C. 300ff–1] to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs.

Projects that involve the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Executive Order 12372 Review

Applications are subject to review as governed by Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs. E.O. 12372 sets up a system for state and local government review of processed federal assistance applications. Applicants (other than federally-recognized Indian tribal governments) should contact their state Single Point of Contact (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. A current SPOC list is included in the application kit. If SPOCs have any state process recommendations on applications submitted to CDC, they should forward them to Elizabeth M. Taylor, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, Atlanta, GA 30305, Attn: Eddie L. Wilder, no later than 60 days after the application deadline for new and competing awards. CDC does not guarantee to "accommodate or explain" for state process recommendations it receives after that date.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number assigned to this program is 93.118, Acquired Immunodeficiency Syndrome (AIDS) Activities.

Application Submission and Deadline

The original and two copies of the application, using PHS form 5161–1, must be submitted to Elizabeth M. Taylor, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, MS E14, Atlanta, GA 30305, on or before April 30, 1992.

A. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable proof of timely mailing.)

B. *Late applications:* Applications which do not meet the criteria in A.1. or A.2. above are considered late applications. Late applications shall not be considered in the current competition for funding and will be returned to the applicant.

Where to Obtain Additional Information

Information on application procedures, copies of application forms, other materials and business management technical assistance may be obtained from Eddie L. Wilder, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., room 300, MS E14, Atlanta, GA 30305, at (404) 842–6805 or FTS 236–6805.

Please refer to Announcement Number 216 when requesting information and submitting an application.

Programmatic technical assistance may be obtained from: Carl Campbell, Division of STD/HIV Prevention, National Center for Prevention Services, Centers for Disease Control, MS E44, Atlanta, GA 30333, at (404) 639–0800 or FTS 236–0800; or A. Russell Gerber, M.D., National Center for Prevention Services, Centers for Disease Control, MS E07, Atlanta, GA 30333, at (404) 639–1480 or FTS 236–1480; or from the appropriate project officer at (404) 639–1205 or FTS 236–1205.

Potential applicants may obtain a copy of Healthy 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, at (202) 783–3238.

Dated: April 20, 1992.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 92–9565 Filed 4–23–92; 8:45 am]

BILLING CODE 4160–18–M

Board of Scientific Counselors, National Center for Infectious Diseases; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Center for Infectious Diseases (NCID).

Times and Dates: 8:30 a.m.–5:30 p.m., May 11, 1992. 8:30 a.m.–4 p.m., May 12, 1992.

Place: CDC, Auditorium A, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Status: Closed: 4:30 p.m.–5:30 p.m., May 11, and 1 p.m.–3 p.m., May 12. All other portions open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, NCID, provides advice and guidance to the Director, CDC, and Director, NCID, in the following areas: Program goals and objectives; strategies; program organization and resources for infectious disease prevention and control; and program priorities.

Matters to be Discussed: The agenda will focus on the state of NCID; update on NCID activities as they relate to multidrug-resistant tuberculosis; update on vaccine project action plans, disease priorities, and action planning; and the status of the search for a Deputy Director for NCID. In three formulated work groups, discussion will center around: Vaccine development and evaluation, infectious diseases in minority populations, and emerging and reemerging infectious diseases. A board member and an NCID staff liaison will

preside over each work group. Reports will be required of each work group at the conclusion of the breakout session. Other agenda items for the meeting will include announcements; consideration of minutes of the November 11–12, 1991, meeting; a report from the Acting Director, NCID; and discussion of research initiatives, operation of the board, and future broad activities.

Beginning at 4:30 p.m. through 5:30 p.m., May 11, and 1 p.m. through 3 p.m., May 12, the board will discuss certain matters the public disclosure of which would constitute a violation of sections 552b(c)(2), 552b(c)(6), and 552b(c)(9) of title 5 U.S. Code related to personal privacy. Therefore, pursuant to said provisions and the determination of the Director, CDC, this portion of the meeting will not be open to the public.

Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

CONTACT PERSON FOR MORE INFORMATION: James M. Hughes, M.D., Acting Director, NCID, CDC, Mailstop C–12, 1600 Clifton Road, NE., Atlanta, Georgia 30333, Telephone 404/639–3401 or FTS 236–3401.

Dated: April 20, 1992.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 92–9563 Filed 4–23–92; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 91E-0491]

Determination of Regulatory Review Period for Purposes of Patent Extension; Pravachol®; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the Federal Register of March 10, 1992 (57 FR 8461), that announced its determination of the regulatory review period for purposes of patent extension for Pravachol® (pravastatin sodium). The document was published with some inadvertent mathematical errors. The document stated, "Of this time, 1,040 days occurred during the testing phase of the regulatory review period, while 1,149 days occurred during the approval phase." It should have stated, "Of this time, 1,186 days occurred during the testing phase of the regulatory review period, while 1,003 days occurred during the approval phase." This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: Joel Sparks, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

In FR Doc. 92-5596, appearing on page 8461 in the **Federal Register** of Tuesday, March 10, 1992, the following corrections are made: On page 8462, in the second column, in the first complete paragraph, in line 4, "1,040" is corrected to read "1,186"; and in line 6, "1,149" is corrected to read "1,003".

Dated: April 13, 1992.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 92–9578 Filed 4–23–92; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[OPA–003–N]

Medicare Program; Meetings of the Practicing Physicians Advisory Council

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

ACTION: Notice of meetings.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces meetings of the Practicing Physicians Advisory Council. The meetings are open to the public.

DATES: The first meeting is scheduled for May 11, 1992 from 9 a.m. until 5 p.m. e.d.t. Additional meetings are tentatively scheduled for September 14, 1992 from 9 a.m. until 5 p.m. e.d.t., and December 7, 1992 from 9 a.m. until 5 p.m. e.s.t.

ADDRESSES: The meetings will be held in room 800, 8th Floor of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Matthew Crow, Executive Director, Practicing Physicians Advisory Council, room 425–H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, (202) 245–7874.

SUPPLEMENTARY INFORMATION: The Secretary of the Department of Health and Human Services is mandated by section 1868 of the Social Security Act, as added by section 4112 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508, enacted on November 5, 1990), to appoint a Practicing Physicians Advisory Council (the Council) based on nominations submitted by medical organizations representing health care professionals. The Council meets quarterly to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services identified by the Secretary. To the extent feasible and consistent with statutory deadlines, the consultation must occur before publication of the proposed changes. The Council submits an annual report on its recommendations to the Secretary and the Administrator of HCFA not later than December 31st of each year.

The Council consists of 15 physicians, each of whom has submitted at least 250 claims for physicians' services under Medicare in the previous year. Members of the Advisory Council include both participating and nonparticipating physicians, and physicians practicing in rural and underserved urban areas. At least 11 members must be doctors of medicine or osteopathy authorized to practice medicine and surgery by the States in which they practice. Members have been invited to serve for overlapping 4-year terms. In accordance with section 14 of the Federal Advisory Committee Act, terms of more than 2 years are contingent upon the renewal of the Advisory Committee by appropriate action before the end of the 2-year term.

The current members are: Gary Dennis, M.D. Harvey Hanlen, O.D., Kenneth Hansen, M.D., Isabel Hoverman, M.D., Ramon Jimenez, M.D., Jerilyn Kaibel, D.C., William Kirsch, D.O., Marie Kuffner, M.D., David Massanari, M.D., Kenton Moss, M.D., Susan Owens, M.D., Isadore Rosenfeld, M.D., Richard Tompkins, M.D., James Waites, M.D., and Gary Yordy, M.D. The chairperson is Richard Tompkins, M.D.

The first meeting of the Council will be held on May 11, 1992. The purpose of the meeting will be to provide an overview of HCFA to the Council and discuss organizational issues. In addition, the Council will be asked to discuss items in connection with a Notice of Proposed Rulemaking entitled "Physician Ownership of, and Referrals to, Health Care Entities that Furnish Laboratory Services" (BPD–674–P) that was published in the Federal Register (57 FR 8588) on March 11, 1992. Those individuals or organizations who wish to make 10-minute oral presentations on scheduled topics must contact the Executive Director to be scheduled. For the name, address and telephone number of the Executive Director, see the "**FOR FURTHER INFORMATION CONTACT**" section at the beginning of

this notice. A written copy of the oral remarks must be presented to the Executive Director at the time of the presentation. Anyone who is not scheduled to speak may submit written comments to the Executive Director. Meetings are open to the public but attendance is limited to the space available on a first-come basis.

Authority: Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, section 10(a)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 22, 1992.

William Toby,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 92–9776 Filed 4–23–92; 8:45 am]

BILLING CODE 4120–01–M

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Public Health Service (PHS) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program ("the Program"), as required by section 2112(b)(2) of the PHS Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Claims Court is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program generally, contact the Clerk, United States Claims Court, 717 Madison Place, NW., Washington, DC 20005, (202) 633–7257. For information on the Public Health Service's role in the Program, contact the Administrator, Vaccine Injury Compensation Program, 6001 Montrose Road, room 702, Rockville, MD 20852, (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of nonfault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Claims Court and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to PHS. The Claims Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table set forth at section 2114 of the PHS Act. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a partial list of petitions received by PHS on October 1, 1990.

Section 2112(b)(2) also provides that the special master "shall afford all interested persons an opportunity to submit relevant, written information" relating to the following:

1. The existence of evidence "that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition," and

2. Any allegation in a petition that the petitioner either:

(a) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table (see section 2114 of the PHS Act) but which was caused by" one of the vaccines referred to in the Table, or

(b) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine" referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Claims Court at the address listed above (under the heading "**FOR FURTHER INFORMATION CONTACT**"), with a copy to PHS addressed to Director, Bureau of Health Professions, 5600 Fishers Lane, room 8–05, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Nira Gregory on behalf of Rebecca Gregory, Huntsville, Alabama, Claims Court Number 90–2426 V
2. Tracey Lott on behalf of Terrance Lott, East Orange, New Jersey, Claims Court Number 90–2427 V
3. Blanca Padron on behalf of Roberta Padron, Moses Lake, Washington, Claims Court Number 90–2428 V
4. James Dixon on behalf of Kimberly Dixon, Georgetown, Texas, Claims Court Number 90–2429 V
5. Mario Dominguez, Odessa, Texas, Claims Court Number 90–2430 V
6. Janet Butterfield on behalf of Joshua Butterfield, Kenton, Ohio, Claims Court Number 90–2431 V
7. Thomas Licata on behalf of Daniel Licata, Brick, New Jersey, Claims Court Number 90–2432 V
8. Glen McIntosh on behalf of Glen McIntosh, Jr., Honolulu, Hawaii, Claims Court Number 90–2433 V
9. Carole Hayashi on behalf of Gay Hayashi, Honolulu, Hawaii, Claims Court Number 90–2434 V
10. Shari LaBar on behalf of Noel LaBar, Jefferson Township, New Jersey, Claims Court Number 90–2435 V
11. Alan Bertaina on behalf of Adam Bertaina, San Francisco, California, Claims Court Number 90–2436 V
12. Gilbert Farley on behalf of Ronald Farley, Deceased, W. Covina, California, Claims Court Number 90–2437 V
13. Stanley Clippinger on behalf of Jesse Clippinger, Greeneville, Tennessee, Claims Court Number 90–2438 V

14. Bobbie Crowe on behalf of Daniel Crowe, Johnson City, Tennessee, Claims Court Number 90–2439 V
15. Richard Benton on behalf of Rebecca Benton, Winona, Mississippi, Claims Court Number 90–2440 V
16. George Ellis on behalf of Emily Ellis, Deceased, Kennewick, Washington, Claims Court Number 90–2441 V
17. Norma Brusacoram on behalf of Lisa Brusacoram, Deceased, Chisholm, Minnesota, Claims Court Number 90–2442 V
18. Harold Rose, Sr., on behalf of Harold Rose, Jr., Cleveland, Ohio, Claims Court Number 90–2443 V
19. Rose Calvanico on behalf of Gina Calvanico, Burlington, Vermont, Claims Court Number 90–2444 V
20. Michael Clarke, Chicago Heights, Illinois, Claims Court Number 90–2445 V
21. Martha McGowan, Toronto, Canada, Claims Court Number 90–2446 V
22. Kevin Shannon on behalf of James Shannon, Enumclaw, Washington, Claims Court Number 90–2447 V
23. Bonnie Sauer on behalf of Jessica Sauer, Heidelberg, Germany, Claims Court Number 90–2448 V
24. Ahmad Ali on behalf of Alla Ali, Chicago, Illinois, Claims Court Number 90–2449 V
25. Denise Rohrbeck on behalf of Kristin Rohrbeck, Lake City, Iowa, Claims Court Number 90–2450 V
26. Bryan Bovee, Chittenango, New York, Claims Court Number 90–2451 V
27. Debra Small, Vancouver, Washington, Claims Court Number 90–2452 V
28. Clemmie Moore on behalf of Paul Moore, Tampa, Florida, Claims Court Number 90–2453 V
29. Catherine Gawoski, Niagara Falls, New York, Claims Court Number 90–2454 V
30. Jack Lawson on behalf of Jennifer Lawson, New Kensington, Pennsylvania, Claims Court Number 90–2455 V
31. Bernadetta Clark, Drexel Hill, Pennsylvania, Claims Court Number 90–2456 V
32. Debra Housholder on behalf of Stacy Housholder, Cottonwood, Arizona, Claims Court Number 90–2457 V
33. Patricia Smith on behalf of Deborah White, Deceased, Barrington, Illinois, Claims Court Number 90–2458 V
34. Patrick Henry on behalf of Erin Henry, St. Paul, Minnesota, Claims Court Number 90–2459 V
35. Thomas Belsjoe, Jr., on behalf of Thomas Belsjoe, III, Denver, Colorado, Claims Court Number 90–2460 V
36. Christopher Harwood, Prairie Village, Kansas, Claims Court Number 90–2461 V
37. Antonina Truax on behalf of Christine Truax, Decreased, Elkhart, Indiana, Claims Court Number 90–2462 V
38. Sandra Vires, Marshall, Indiana, Claims Court Number 90–2463 V
39. Henry Stout, Moscow, Pennsylvania, Claims Court Number 90–2464 V
40. Frances Kemp, Pine Bluff, Arkansas, Claims Court Number 90–2465 V
41. Kathryn Cardamon on behalf of Matthew Kiebel, Iowa City, Iowa, Claims Court Number 90–2466 V
42. Larry Jepsen on behalf of Ryan Jepsen, Deceased, Milwaukee, Wisconsin, Claims Court Number 90–2467 V
43. John Falvello, Hazleton, Pennsylvania, Claims Court Number 90–2468 V
44. Mary Heath on behalf of Joseph Heath, Anderson, Indiana, Claims Court Number 90–2469 V
45. Kenneth Working on behalf of Jeffrey Working, Long Beach, California, Claims Court Number 90–2470 V
46. Dennis Goltara on behalf of Elizabeth Goltara, Amherst, New York, Claims Court Number 90–2471 V
47. Lori Antonino on behalf of Garrett Antonino, Fresno, California, Claims Court Number 90–2472 V
48. Joseph DeSpain, Harrisburg, Arkansas Claims Court Number 90–2473 V
49. James LeBlanc on behalf of Kelly LeBlanc, Baton Rouge, Louisiana, Claims Court Number 90–2474 V
50. Vicki Aldridge on behalf of Jaried Aldridge, Marietta, Mississippi, Claims Court Number 90–2475 V
51. Ruby Cunningham on behalf of Jasmine Cunningham, Birmingham, Alabama, Claims Court Number 90–2476 V
52. Patricia Spearman on behalf of Stephanie Willard, Birmingham, Alabama, Claims Court Number 90–2477 V
53. Hope Wilson on behalf of Geretta Wilson, Deceased, Houston, Texas, Claims Court Number 90–2478 V
54. William Boldizsar on behalf of Stephen Boldizsar, Port Huron, Michigan, Claims Court Number 90–2479 V
55. Steve Vanderhoof on behalf of Sarah Vanderhoof, Springfield, Missouri, Claims Court Number 90–2480 V
56. Sulinda Dipietra on behalf of Amber Dipietra, Tampa, Florida, Claims Court Number 90–2481 V
57. Lephia Grogg on behalf of Neil Grogg, Bridgewater, Virginia, Claims Court Number 90–2482 V
58. Patricia Hockett on behalf of Patricia Hegeman, Norfolk, Virginia, Claims Court Number 90–2483 V
59. Laura McCullar on behalf of Nicholas McCullar, Birmingham, Alabama, Claims Court Number 90–2484 V
60. Joseph Guida, Jr., on behalf of Joseph Guida, III, Deceased, Philadelphia, Pennsylvania, Claims Court Number 90–2485 V
61. Timothy Guida, Philadelphia, Pennsylvania, Claims Court Number 90–2486 V
62. Eva Hernandez on behalf of Mauro Hernandez, Kingsville, Texas, Claims Court Number 90–2487 V
63. Veronica Shellenberger on behalf of Earl Shellenberger, Swedesboro, New Jersey, Claims Court Number 90–2488 V
64. Dewey Smith on behalf of Keith Smith, Starkville, Mississippi, Claims Court Number 90–2489 V
65. Shirley Mendlik on behalf of Kelley Jo Mendlik, Joplin, Missouri, Claims Court Number 90–2490 V
66. Jill Mroczkowski, East Detroit, Michigan, Claims Court Number 90–2491 V
67. Kathryn Dorey, El Reno, Oklahoma, Claims Court Number 90–2492 V
68. Jennifer Nelson on behalf of Chad Nelson, Des Moines Iowa, Claims Court Number 90–2493 V
69. Bernice Ferguson on behalf of Michael Ferguson, Burlington, Massachusetts, Claims Court Number 90–2494 V
70. Timothy Moon on behalf of Heather Moon Sanford, North Carolina, Claims Court Number 90–2495 V
71. Steve Rines on behalf of Steve Rines, II, Morristown, Tennessee, Claims Court Number 90–2496 V
72. Michael Falat on behalf of Nicholas Falat, Springfield, Virginia, Claims Court Number 90–2497 V
73. William Hine on behalf of Jeneen Hine, Akron, Ohio, Claims Court Number 90–2498 V
74. Terry Combs on behalf of Bridget Combs, Minneapolis, Minnesota, Claims Court Number 90–2499 V
75. Floyd Grugal on behalf of Steven Grugal, London, England, Claims Court Number 90–24500 V
76. Richard Baker on behalf of Christina Baker, Riverside, California, Claims Court Number 90–2501 V
77. Otto Ralph Jones, Los Angeles, California, Claims Court Number 90–2502 V
78. James E. Martin, Long Beach, California, Claims Court Number 90–2503 V
79. Carolyn Green, Long Beach, California, Claims Court Number 90–2504 V
80. Ronald Banks—No Patient's name given, Long Beach, California, Claims Court Number 90–2505 V

81. Peter Brown, Long Beach, California, Claims Court Number 90–2506 V
82. Richard Clark, Long Beach, California, Claims Court Number 90–2507 V
83. Matthew Peters—No Patient's Name given, Long Beach, California, Claims Court Number 90–2508 V
84. Donald Riley—NO PATIENT'S NAME GIVEN, Long Beach, California, Claims Court Number 90–2509 V
85. Roy Stevens—NO PATIENT'S NAME GIVEN, Long Beach, California, Claims Court Number 90–2510 V
86. Margaret Rudolph on behalf of Keith Rudolph, Fresno, California, Claims Court Number 90–2511 V
87. Deborah Fields, Bonifay, Florida, Claims Court Number 90–2512 V
88. John Peter Smith—NO PATIENT'S NAME GIVEN, Long Beach, California, Claims Court Number 90–2513
89. Joanne Corter, Baltimore, Maryland, Claims Court Number 90–2514 V
90. Bernadyne Atkinson on behalf of Sharon Quarnes, Deceased, Long Beach, California, Claims Court Number 90–2515 V
91. Edward Waken on behalf of Rachel Waken, Long Beach, California, Claims Court Number 90–2516 V
92. James Ward, Fremont, California, Claims Court Number 90–2517 V
93. William Griffin, Coronado, California, Claims Court Number 90–2518 V
94. Sharon Fox on behalf of Matthew Fox, Deceased, Long Beach, California, Claims Court Number 90–2519 V
95. John Scheffler on behalf of Joshua Scheffler, Lompoc, California, Claims Court Number 90–2520 V
96. Bernard Harrington on behalf of Brian Harrington, Deceased, Long Beach, California, Claims Court Number 90–2521 V
97. Susan Huff, Boulder, Colorado, Claims Court Number 90–2522 V
98. Robert Castaneda on behalf of Robert Castaneda, Jr., Long Beach, California, Claims Court Number 90–2523 V
99. Leroy Gregory, Kennewick, Washington, Claims Court Number 90–2524 V
100. Paul Taylor, San Francisco, California, Claims Court Number 90–2525 V
101. Alisha Marshall on behalf of Matthew Marshall, Raleigh, North Carolina, Claims Court Number 90–2526 V
102. Carolin Perriman, Westminster, Colorado, Claims Court Number 90–2527 V
103. Bruce Williford on behalf of Timothy Williford, Deceased, Four Oaks, North Carolina, Claims Court Number 90–2528 V
104. James Kelly on behalf of Sean Kelly, Deceased, Red Wing, Minnesota, Claims Court Number 90–2529 V
105. Hugh Phillips on behalf of Diane Phillips, Santa Ana, California, Claims Court Number 90–2530 V
106. Ralph Oxarart on behalf of Jamie Oxarart, Carson City, Nevada, Claims Court Number 90–2531 V
107. Debra Falanga, West Islip, New York, Claims Court Number 90–2532 V
108. Dilmus Blackmon on behalf of Eunice Blackmon, Raleigh, North Carolina, Claims Court Number 90–2533 V
109. JoAnn York on behalf of Paul York, Lexington, Georgia, Claims Court Number 90–2534 V
110. James McCloud on behalf of Ann McCloud, Atlanta, Georgia, Claims Court Number 90–2535 V
111. Sharon Arnold on behalf of Britteney Arnold, East Chicago, Indiana, Claims Court Number 90–2536 V
112. Dirk Nies on behalf of Ryan Nies, Rockville, Maryland, Claims Court Number 90–2537 V
113. Irene Kranich on behalf of Stephanie Kranich, Houston, Texas, Claims Court Number 90–2538 V
114. David Downs on behalf of James Downs, Greenbelt, Maryland, Claims Court Number 90–2539 V
115. Beverly Jenkins on behalf of Mary Ann Waggoner, Cleveland, Ohio, Claims Court Number 90–2540 V
116. Jerry Tucker on behalf of Jeri Ann Tucker, Lakewood, Colorado, Claims Court Number 90–2541 V
117. Sharon Price, Kilgore, Texas, Claims Court Number 90–2542 V
118. Stephanie Stewart on behalf of Ronald Stewart, Purcellville, Virginia, Claims Court Number 90–2543 V
119. Leif Mauritzson on behalf of Brandon Mauritzson, Deceased, Urbana, Illinois, Claims Court Number 90–2544 V
120. Madeline Gamache on behalf of Kristy Gamache, Leominster, Massachusetts, Claims Court Number 90–2545 V
121. Dorothy Schneidman on behalf of Janice Schneidman, Deceased, Philadelphia, Pennsylvania, Claims Court Number 90–2546 V
122. Frank Messina on behalf of Patrick Messina, Trenton, New Jersey, Claims Court Number 90–2547 V
123. Rosemarie Dorobkowski on behalf of Philip Dorobkowski, Prospect Park, New Jersey, Claims Court Number 90–2548 V
124. William J. Duffy on behalf of William P. Duffy, Wayne, New Jersey, Claims Court Number 90–2549 V
125. Mary Ann Cluney on behalf of Christine Cluney, Clifton, New Jersey, Claims Court Number 90–2550 V
126. Linda Campagna on behalf of John Campagna, Lodi, New Jersey, Claims Court Number 90–2551 V
127. Cynthia Barry, Rego Park, New York, Claims Court Number 90–2552 V
128. Maggi Reser on behalf of Talicsen McLagen, Santa Cruz, California, Claims Court Number 90–2553 V
129. Carol Matinique on behalf of Lauren Martinique, Deceased, Montclair, New Jersey, Claims Court Number 90–2554 V
130. Maria Paladino on behalf of Lana Santimone, Montclair, New Jersey, Claims Court Number 90–2555 V
131. Maria Saia, Lodi, New Jersey, Claims Court Number 90–2556 V
132. Barry Milazzo on behalf of Bryson Milazzo, Fair Lawn, New Jersey, Claims Court Number 90–2557 V
133. Edwino Dizon on behalf of Marina Dizon, Grosse Pointe, Michigan, Claims Court Number 90–2558 V
134. Robert Bellinger, Ridgewood, New Jersey, Claims Court Number 90–2559 V
135. Peter Vacca, II, on behalf of Peter Vacca, III, Hackensack, New Jersey, Claims Court Number 90–2560 V
136. Janet Queli on behalf of Tracy Queli, Essex Fells, New Jersey, Claims Court Number 90–2561 V
137. Sharon Sundberg on behalf of Christopher Wakefield, Duluth, Minnesota, Claims Court Number 90–2562 V
138. Billy Sprott on behalf of Christopher Sprott, Corpus Christi, Texas, Claims Court Number 90–2563 V
139. Dana Brigham on behalf of Brett Brigham, Oxon Hill, Maryland, Claims Court Number 90–2564 V
140. Hellen Felling on behalf of Daniel Felling, Wayne, Michigan, Claims Court Number 90–2565 V
141. Edwin Felling on behalf of Amanda Felling, Deceased, San Rafael, California, Claims Court Number 90–2566 V
142. Daniel Friel on behalf of Martha Wilson, Wilmington, Delaware, Claims Court Number 90–2567 V
143. Walter McEwen, Sr., on behalf of Russell McEwen, Washington, D.C., Claims Court Number 90–2568 V
144. Don Birge on behalf of Chad Birge, Columbus, Indiana, Claims Court Number 90–2569 V
145. Li-fu Chen on behalf of Julie Chen, Lafayette, Indiana, Claims Court Number 90–2570 V

146. Christopher Pella, Champaign, Illinois, Claims Court Number 90–2571 V
147. Annette Hanna, Galesburg, Illinois, Claims Court Number 90–2572 V
148. Jeffrey Von Willis, Clintwood, Virginia, Claims Court Number 90–2573 V
149. Delora Bowling on behalf of Carmaleda Bowling, Dayton, Ohio, Claims Court Number 90–2574 V
150. Peggy Bevins on behalf of Jaime Michelle Bevins, Phoenix, Arizona, Claims Court Number 90–2575 V
151. Willistine Kelly on behalf of Shaun Price, Washington, D.C., Claims Court Number 90–2576 V
152. James Mignone on behalf of Joseph Mignone, Hayward, California, Claims Court Number 90–2577 V
153. Michael Dewey on behalf of Jeremy Dewey, Deceased, San Jose, California, Claims Court Number 90–2578 V
154. David Curlee on behalf of Drew Curlee, Houston, Texas, Claims Court Number 90–2579 V
155. Joy Collins on behalf of Tiffany Collins, Texas City, Texas, Claims Court Number 90–2580 V
156. Dana Goldsby on behalf of Erika Goldsby, Barbers Point, Hawaii, Claims Court Number 90–2581 V
157. Kevin Winert on behalf of Melissa Winert, Deceased, Provo, Utah, Claims Court Number 90–2582 V
158. Eulalia Garza on behalf of Melissa Garza, Richmond, Texas, Claims Court Number 90–2583 V
159. Eddie Offord on behalf of Kietra Offord, Houston, Texas, Claims Court Number 90–2584 V
160. Ralph Camery on behalf of Philip Camery, Cincinnati, Ohio, Claims Court Number 90–2585 V
161. Diana Lindsey on behalf of Joseph Lindsey, Deceased, Dayton, Ohio, Claims Court Number 90–2586 V
162. Charles Rumble, II, on behalf of Charles Rumble, III, Portsmouth, Virginia, Claims Court Number 90–2587 V
163. David Wehunt on behalf of David Rutledge, Baytown, Texas, Claims Court Number 90–2588 V
164. Carmen Martin on behalf of Randolph Soliz, Kingsville, Texas, Claims Court Number 90–2589 V
165. Phyllis Yasin on behalf of David Yasin, Houston, Texas, Claims Court Number 90–2590 V
166. Morgan Jones on behalf of Terri Jones, San Antonio, Texas, Claims Court Number 90–2591 V
167. Reggie Jackson on behalf of Jeremy Jackson, Kingsville, Texas, Claims Court Number 90–2592 V
168. Rhonda Lewandowski on behalf of Gina Lopez, Columbus, Ohio, Claims Court Number 90–2593 V
169. Tim Turri on behalf of Chase Turri, Alamogordo, New Mexico, Claims Court Number 90–2594 V
170. Claude Douglas on behalf of Adam Douglas, Benton, Arkansas, Claims Court Number 90–2595 V
171. Carl Payne on behalf of Sean Payne, Beeville, Texas, Claims Court Number 90–2596 V
172. Leo Salcido on behalf of Raymond Salcido, Corpus Christi, Texas, Claims Court Number 90–2597 V
173. Phyllis Yasin on behalf of David Yasin, Houston, Texas, Claims Court Number 90–2598 V
174. James Walker, San Antonio, Texas, Claims Court Number 90–2599 V
175. Ephraim Del Pozo on behalf of Marisa Zarate, Pasadena, Texas, Claims Court Number 90–2600 V
176. Larry Noirot on behalf of Sarah Noirot, Deceased, Napoleon, Ohio, Claims Court Number 90–2601 V
177. Melchor Mata on behalf of Michael Mata, Houston, Texas, Claims Court Number 90–2602 V
178. Sally Cortez on behalf of Daniel Cortez, San Antonio, Texas, Claims Court Number 90–2603 V
179. Darnell Jantz on behalf of Trevor Jantz, Fort Worth, Texas, Claims Court Number 90–2604 V
180. Edward Hollas on behalf of Travis Hollas, San Antonio, Texas, Claims Court Number 90–2605 V
181. Sharon Copeland on behalf of Carrie Brietzke, Boerne, Texas, Claims Court Number 90–2606 V
182. Mary Samaniego on behalf of Roel Samaniego, Robstown, Texas, Claims Court Number 90–2607 V
183. Joe and Cindy Leal on behalf of Elizabeth Leal, San Antonio, Texas, Claims Court Number 90–2608 V
184. Beth Brown on behalf of Berkley Rafferty, Houston, Texas, Claims Court Number 90–2609 V
185. Jose Ortega on behalf of Christopher Ortega, El Paso, Texas, Claims Court Number 90–2610 V
186. Sadie Cohn on behalf of Nina Cohn, Deceased, Houston, Texas, Claims Court Number 90–2611 V
187. Carlos Moreno on behalf of Carlos Moreno, Jr., Corpus Christi, Texas, Claims Court Number 90–2612 V
188. Adelia Valdes on behalf of Christina Valdes, Corpus Christi, Texas, Claims Court Number 90–2613 V
189. Allen Gordon on behalf of Justin Gordon, Houston, Texas, Claims Court Number 90–2614 V
190. Conrad Montemayor on behalf of Melissa Montemayor, Houston, Texas, Claims Court Number 90–2615 V
191. Anthony Urban on behalf of Anthony Urban, Jr., Las Vegas, Nevada, Claims Court Number 90–2616 V
192. Thomas Chambers on behalf of Gary Chambers, Dallas, Texas, Claims Court Number 90–2617 V
193. Melinda Sizemore on behalf of Ryan Young, Conroe, Texas, Claims Court Number 90–2618 V
194. Andres Castillo on behalf of Rosalinda Castillo, San Antonio, Texas, Claims Court Number 90–2619 V
195. Rhonda Burleson on behalf of Ronald Burleson, Houston, Texas, Claims Court Number 90–2620 V
196. Peggy Gomez on behalf of Jacqueleen Gomez, San Antonio, Texas, Claims Court Number 90–2621 V
197. Marian Freeman on behalf of Rachel Freeman, Houston, Texas, Claims Court Number 90–2622 V
198. Lorenzo Davis on behalf of Lorkeshia Davis, Houston, Texas, Claims Court Number 90–2623 V
199. Paul Novak on behalf of Andrew Novak, Houston, Texas, Claims Court Number 90–2624 V
200. Vickie Woods on behalf of Melissa Woods, Silver City, New Mexico, Claims Court Number 90–2625 V

Dated: April 20, 1992.

John H. Kelso,

Acting Administrator.

[FR Doc. 92–9579 Filed 4–23–92; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, April 17, 1992.

(Call PHS Reports Clearance Officer on 202–245–2100 for copies of package)

1. Cognitive Research on Response Errors in Health Survey Questions—0920–0264—The experiments are laboratory studies of the cognitive processes involved in reporting income, sexual behavior, drug and alcohol use, mental health pregnancy outcomes, health promotion and disease prevention, accidents, health insurance, and death certificate evaluation. The results will be used to develop improved questioning procedures for several NCHS surveys. Respondents: Individuals or households.

Title	No. of respondents	No. of responses per respondent	Average burden per response
Existing Approval.	800	7.25	.292 hrs.
Screening (death certificates).	1,538	1	30/60 hr.
Telephone (death certificates) interviews.	800	1	30/60 hr.
Meeting/ Office Interviews (death cert.).	250	1	40/60 hr.

Estimated Total Annual Burden.....2,357

2. Patient Follow-up Feasibility Study—Concept Clearance—New—The purpose of this project is to develop and field test methodologies for conducting longitudinal follow-up studies of patients (clients) of health care providers. Results will be used to implement future national longitudinal studies. Respondents: Individuals or households, Businesses or other for-profit, Non-profit institutions. Annual Reporting Burden: Since this is a concept clearance, definitive burden estimates are not yet available. These estimates will be provided when the study design and questionnaire are final and the final clearance request is submitted.

3. Physician-based Assessment and Counseling for Exercise (PACE): A Pilot Study—New—The data collections will include the physician's personal physical activity habits; current health promotion activities and activity counseling practices. Respondents information will be from office staff of the physicians and telephone survey of randomly selected patients who were seen by the physicians during the 6-month pilot. Resulting information will be used to evaluate the PACE protocols and physician training materials. Respondents: Individuals or households; Number of Respondents: 960; Number of Responses per Respondent: 2.42; Average Burden per Response: .238 hours; Estimated Annual Burden: 552 hours.

4. Women's Health and Aging Study—New—This prospective epidemiologic study will examine and follow, for a period of 3 years, 1,000 disabled elderly women living within a defined geographic area in Baltimore City and County. The overall goal of this study is to understand the causes and course of physical disability in women age 65 years and older. Respondents: Individuals or households; Number of Respondents: 2,297; Number of Responses per Respondent: 1.9147; Average Burden per Response: 0.8722 hours; Estimated Annual Burden: 3,836 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington DC. 20503.

Dated: April 20, 1992.

Phyllis M. Zucker,

Acting Director, Office of Health Planning and Evaluation.

[FR Doc. 92-9593 Filed 4-23-92; 8:45 am]

BILLING CODE 4160-17-M

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Probenecid

The HHS' National Toxicology Program announces the availability of the NTP Technical Report on the toxicology and carcinogenesis studies of probenecid, a white crystalline powder used as a uricosuric agent in the treatment of gout.

Toxicology and carcinogenesis studies of probenecid were conducted by administering the chemical in corn oil by gavage to groups of 50 F344/N Z rats and B6C3F1 mice of each sex at doses of 0, 100, or 400 mg/kg per day for 103 weeks.

Under the conditions of these 2-year gavage studies, there was no evidence of carcinogenic activity [1] of probenecid for male or female F344/N rats or for male B6C3F1 mice receiving 100 or 400 mg/kg in corn oil. There was some evidence of carcinogenic activity of probenecid for female B6C3F1 mice based on an increased incidence of hepatocellular adenomas.

The Chemical Manager for this bioassay is Dr. Kamal Abdo. Questions or comments about the contents of this technical report should be directed to Dr. Abdo at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541-7819; FTS: 629-7819.

Copies of Toxicology and Carcinogenesis Studies of Probenecid in F344N Rats and B6C3F1 Mice (Gavage Studies) (TR 395) are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Telephone: 1-800-553-6847. The document order number is PB92-129584/AS.

Dated: April 14, 1992.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 92-9384 Filed 4-23-92; 8:45 am]

BILLING CODE 4140-01-M

[1] The NTP uses five categories of evidence of carcinogenicity to summarize the evidence observed in each animal study: Two categories for positive results ("clear evidence" and "some evidence"), one category for uncertain findings ("equivocal evidence"), one category for no observable effect ("no evidence"), and one category for studies that cannot be evaluated because of major flaws ("inadequate study").

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-1917; FR-2934-N-75]

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* versus *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 1–800–927–7588 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: *GSA:* Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 501–0067; *Corps of Engineers:* Bob Swieconek, Headquarters, Army Corps of Engineers, Attn: CERE–MM, room 4224, 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; (703) 325–0474; *Dept. of Agriculture:* Marsha Pruitt, Realty Officer, USDA, South Bldg. rm. 1566, 14th and Independence Ave. SW., Washington, DC 20250; (202) 447–3338; (These are not toll-free numbers).

Dated: April 17, 1992.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 4/24/92

Suitable/Available Properties

Buildings (by State)

Florida

Bldg. CN–43
Port Mayaca Lock and Spillway
Okeechobee Waterway
Port Mayaca Co: Martin FL 33438–
Location: Located approx. 9 mi n/o Canal Pt. at the intersection of US 441 and SR 76
Landholding Agency: COE
Property Number: 319210004
Status: Unutilized
Comment: 1,700 sq. ft., 1 story concrete block/stucco structure, possible asbestos, off-site use only.

Ohio

Safreit, Josephine A–8939
Sec. 25 & Sec. 24.30 Co: Monroe OH
Landholding Agency: Agriculture
Property Number: 159220002
Status: Excess
Comment: 2,948 sq. ft., 1½ floors, frame residence, utilities disconnected, needs rehab, off-site removal only.
Dye, Franklin A–8720
T4N, R6W, Sec. 7 Co: Monroe OH
Landholding Agency: Agriculture
Property Number: 159220003
Status: Excess
Comment: 2,724 sq. ft., 1½ floors, frame residence, utilities disconnected, needs rehab, off-site removal only.

Pennsylvania

Mahoning Creek Reservoir
New Bethlehem Co: Armstrong PA 16242–
Landholding Agency: COE
Property Number: 319210008
Status: Unutilized
Comment: 1,015 sq. ft., 2 story brick residence, off-site use only.

Suitable/To Be Excessed

Buildings (by State)

New York

Former Damtender's House
East Sidney Lake
Franklin Co: Delaware NY 13775–
Location: Located on the corner of Triverfold Rd. and County Rd. 44
Landholding Agency: COE
Property Number: 319210007
Status: Excess
Comment: 1,605 sq. ft., 2 story wood frame residence with 1 acre of land, asbestos shingle siding.

Land (by state)

Kansas

Parcel No. 2, El Dorado Lake
Approx. 1 mi east of the town of El Dorado Co: Butler KS
Landholding Agency: COE
Property Number: 31921005
Status: Unutilized
Comment: 11 acres, part of a relocated railroad bed, rural area.

Pennsylvania

Dashields Locks and Dam
(Glenwillard, PA)
Crescent Twp. Co: Allegheny PA 15046–0475
Landholding Agency: COE
Property Number: 319210009
Status: Unutilized
Comment: 0.58 acres, most recent use—baseball field.

Unsuitable Properties

Buildings (by State)

Georgia

Chapel Bldg. #319
Northwest Regional Hospital
1305 Redmond Road
Rome Co: Floyd GA 30165
Landholding Agency: GSA
Property Number: 549220002
Status: Excess
Reason: Other
Comment:Inaccessible
GSA Number: 4–D–GA–0007A.

Hawaii

Bldg. 15, Makalapa
Luapele Road
Honolulu Co: Honolulu HI 96860-
Landholding Agency: Navy
Property Number: 779220001
Status: Excess
Reason: Other, Secured Area
Comment: Extensive deterioration.

Wisconsin

Kapsey Property #3961, Co: Taylor WI

Location: Sec. 2, T31N, R3W from junction of State Hwy. 64 & 73, go north on Hwy. 73 1¾ miles—turn right on Co. Hwy. G—go 2¾ miles, turn right on FR 121, turn left on 1st road past Yellow River
Landholding Agency: Agriculture
Property Number: 159220001
Status: Unutilized
Reason: Floodway.

[FR Doc. 92-9396 Filed 4-23-92; 8:45 am]
BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-967-4230-15]

Publication, AA-6985-D; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provision of section 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(b), will be issued to Klukway, Inc., for approximately 227 acres. The lands involved are in the vicinity of T. 81 S., R. 85 E., Copper River Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Ketchikn Daily News. copies of the decision may be obtained by contacting the Alaska State Office of the bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until May 26, 1992 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,
Chief, Branch of KCS Adjudication.
[FR Doc. 92-9566 Filed 4-23-92; 8:45 am]
BILLING CODE 4310-JA-M

[AK-967-4230-15]

Publication, AA-6687-A; Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Old Harbor Native Corporation for approximately 1,919 acres. The lands involved are in the vicinity of Old Harbor, Alaska.

Seward Meridian, Alaska

T. 33 S., R. 23 W.;
T. 34 S., R. 25 W.;
T. 35 S., R. 26 W.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Kodiak Daily Mirror. Copes of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, No. 13, Anchorage, Alaska 99513-7599 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until May 26, 1992, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, Subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,
Chief, Branch of KCS Adjudication.
[FR Doc. 92-9567 Filed 4-23-92; 8:45 am]
BILLING CODE 4310-JA-M

[CA-010-02-4212-13; CACA-26683]

Realty Action; Correction to Proposed Land Exchange in Madera, Mariposa, Merced, Monterey, Fresno, and San Benito Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction of Notice of Realty Action; Exchange of Public and Private Lands in Madera, Mariposa, Merced, Monterey, Fresno, and San Benito Counties, California (CACA-28683).

SUMMARY: This document corrects and supplements the Notice of Realty Action (CACA-28683) published in Vol. 56, No 247, pages 66638-66640. Listed below are additional lands being considered in the exchange, and corrections to several typographical errors.

The above referenced notice should have included the following Selected Public Lands being considered for exchange of both surface and mineral estate:

Mount Diablo Meridian, California

T. 6 S., R. 19 E,
Sec. 1, SW¼NW¼;
Sec. 5, Lot 6.
T. 6 S., R. 21 E,
Sec. 26, NW¼NW¼NW¼, S½NW¼ NW¼.

The above referenced notice should have included the following Selected Public Lands being considered for exchange of surface estate only:

Mount Diablo Meridian, California

T. 14 S., R. 8 E,
Sec. 7, Lot 1.
T. 14 S., R. 10 E,
Sec. 18, NW¼NE¼.
T. 17 S., R. 7 E,
Sec. 34, E½NW¼.
T 18 S., R. 5 E,
Sec. 6, Lot 21;
Sec. 7, Lots 1, 2, 9, & 10;
Sec. 31, Lots 1, 10, 11, & 20, W½NE¼, W½ SE¼;
Sec. 34, SE¼SW¼;
Sec. 35, SW¼SW¼.
T. 19 S., R. 5 E,
Sec. 2, Lot 4;
Sec. 3, Lots 1 & 3, SE¼NE¼, SW¼NW¼, N½SW¼, SE¼SW¼, NE¼SE¼, S½ SE¼;
Sec. 6, Lot 2;
Sec. 10, NE¼, E½NW¼, NE¼SW¼, N½ SE¼;
Sec. 11, W½NE¼, NW¼, SW¼, W½SE¼, SE¼E¼;
Sec. 12, SW¼;
Sec. 13, NW¼NE¼, NE¼NW¼;
Sec. 14, NW¼NE¼, SE¼NE¼, NE¼ NW¼.
T. 20 S., R. 12 E,
Sec. 13, W½SW¼;
Sec. 14, SE¼NE¼, SE¼;
Sec. 24, NW¼NW¼;
Sec. 25, N½NW¼;
Sec. 26, NE¼SW¼;
Sec. 27, NW¼NE¼, S½NS¼, W½SE¼.
T. 21 S., R. 12 E,
Sec. 2, Lots 9, 10, 12, 13, & 14, S½NW¼;
Sec. 11, Lots 2 & 3.
T. 21 S., R. 14 E,
Sec. 32, E½SW¼, S½SE¼;
Sec. 33, SE¼NW¼, S½SW¼, SW¼SE¼.
T. 22 S., R. 14 E,
Sec. 4, NE¼SE¼;
Sec. 9, NE¼SE¼;
Sec. 10, SW¼NW¼, NW¼SW¼;
Sec. 17, SW¼NE¼, NE¼NW¼, S½NW¼;
Sec. 18, NE¼NE¼, S½NE¼.
T. 23 S., R. 10 E,
Sec. 21, NE¼SW¼;
Sec. 31, Lots 3 & 4, E½SW¼.
T. 23 S., R. 13 E,

Sec. 24, SW¼SW¼;
Sec. 25, N½NW¼, W½SW¼;
Sec. 26, W½NE¼, NW¼, N½W¼, SE¼;
Sec. 27, NW¼, E½SW¼, E½SE¼.
T. 23 S., R. 14 E,
Sec. 33, SE¼NE¼, N½SE¼.
T. 23 S., R. 15 E,
Sec. 19, Lots 3 & 4, SE¼NW¼, NE¼SW¼;
Sec. 30, Lot 1.
T. 24 S., R. 10 E,
Sec. 5, Lot 4, NW¼SW¼, S½SW¼;
Sec. 6, Lots 1, 2, & 4, S½NE¼, SE¼;
Sec. 7, NE¼, E½SE¼;
Sec. 8, NW¼, S½'
Sec. 9, SW¼, W½SE¼;
Sec. 15, SW¼;
Sec. 17, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 20, NE½NE¼;
Sec. 21, NE¼, N½NW¼, SE¼NW¼, SE¼ SW¼;
Sec. 22, NW¼NW¼, S½NW¼,
Sec. 27, NE¼NW¼, SW¼NW¼.

The above referenced notice should have included the following non-Federal lands to be considered for federal acquisiton of the surface estate only:

Mount Diablo Meridian, California

T. 16 S., R. 12 E,
Sec. 9, NE¼SW¼.
T. 17 S., R. 13 E,
Sec. 30, E½NE¼, E½SE¼.
T. 17 S., R. 14 E,
Sec. 28, E½SE¼SE¼.
T. 19 S., R. 14 E,
Sec. 3, Lots 1, 2, 3, 4, 5, 6, 7, & 8; N½S½;
Sec. 7, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, E½;
Sec. 11, All.

The above referenced notice should have included the following non-Federal lands to be considered for federal acquisition of the surface estate and 50% of the mineral estate:

Mount Diablo Meridian, California

T. 18 S., R. 11 E,
Sec. 16, S1/2SE1/4.

SUPPLEMENTARY INFORMATION: The primary purpose of this exchange is (1) to acquire habitat for several threatened or endangered species including the San Joaquin woollythreads *(Lembertia congdonii)*, San Benito evening primrose *(Camissonia benitensis)*, giant kangaroo rat *(Dipodomys ignens)*, blunt-nosed leopard lizard *(Gambelia silus)*, and San Joaquin kit fox *(Vulpus macrotis mitica)*, (2) to enhance regional biodiversity objectives by acquiring disjunct Mojave Desert vegetation, unique stands of turbinella oak and turbinella oak/blue oak hybrids, and a cross-section of Diablo Range ecosystems ranging from Jeffrey/Coulter/Digger pine forests to alkali desert shrub communities, (3) to acquire significant prehistoric archaeological sites, (4) to acquire six miles of riparian habitat, and (5) to enhance public recreation opportunities by acquiring key parcels that improve public access to existing public lands.

Federal lands identified for disposal are generally small isolated parcels without public access and with low public resource values. The exchange is consistent with the Bureau's land use plans for the lands involved. The public interest will be well served by making the exchange.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

(1) A reservation to the United States for a right-of-way for ditches and canals constructed under the authority of the Act of August 20, 1890 (43 U.S.C. 945).

(2) Authorized pipelines, power lines, roads, highways, telephone lines, minerals leases, and any other authorized land uses will be identified as prior existing rights.

(3) All necessary clearances for archaeology, rare plants and animals shall be completed prior to conveyance of title.

(4) Grazing operations that will have their allotments affected by this exchange are entitled to a 2-year adjustment period. However, a lessee may waive this 2-year notice.

This notice, as provided in 43 CFR 2201.1(b), shall segregate the public lands that are being considered for this exchange. By publication of this notice, those vacant, unappropriated and unreserved public lands described above are segregated from settlement, location and entry under the public land laws, including the mining laws, but not the mineral leasing laws. The segregative effect shall terminate upon issuance of patent, or upon publication in the **Federal Register** of a termination of the segregation, or two (2) years from the date of this notice, whichever occurs first. This action is necessary while eliminating conflicting encumbrances on the public lands during exchange processing.

Detailed information concerning the exchange, including the environmental assessment, is available at the Hollister Resource Area Office, 20 Hamilton Court, Hollister, CA 95023.

For a period of 45 days from publication of this notice in the **Federal Register**, interested parties may submit comments to the Area Manager, Hollister Resource Area at the above address. Comments should specify the specific parcel affected by the comment. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this action will become the final determination.

FOR FURTHER INFORMATION CONTACT: Steve Addington, Hollister Resource Area Office, (408) 637–8183 or at the address above.

Robert E. Beehler,

Hollister Area Manager.

[FR Doc. 92–9537 Filed 4–23–92; 8:45 am]

BILLING CODE 4310–41–M

Bureau of Reclamation

[INT DES 92–12]

American River Bridge, City of Folsom, Central Valley Project, CA

AGENCY: Bureau of Reclamation, Department of Interior.

ACTION: Notice of availability and notice of public hearing.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR part 1500), and section 21002 of the California Environmental Quality Act, the Bureau of Reclamation (Reclamation) and the city of Folsom Community Development Department (City), have prepared a joint draft environmental impact report/draft environmental impact statement (DEIR/DEIS). The purpose of the project is to relieve traffic congestion on roads in the immediate vicinity and on Rainbow Bridge by providing an additional crossing over the American River. Reclamation involvement in this project stems from the need for the city to obtain a right-of-way (ROW) across Federal land pursuant to title 43 CFR part 429. This ROW is required because construction of any of the project alternatives would take place partially on Federal land, under Reclamation jurisdiction.

For more than 20 years, the city has planned for additional crossings over the American River. Today, the 76-year-old, two-lane Rainbow Bridge—the only bridge crossing over the American River within the city of Folsom—is carrying radically more traffic than it was designed to handle. The increased level of traffic congestion that is projected for the future could result in gridlock and more air pollution in the Old Town Folsom district and nearby major intersections. With these realities in mind, the city has continued the detailed planning and environmental review process for a new bridge crossing. The DEIR/DEIS outlines four alternative routes over the American River, evaluates environmental impacts, and

provides mitigation measures for each alternative.

DATES: A 60-day public review period begins with the Environmental Protection Agency's publication of the DEIR/DEIS availability in the Federal Register. Within that review period, written comments on the DEIR/DEIS may be submitted to the Regional Director, Bureau of Reclamation, at the address provided below.

Public hearings on the DEIR/DEIS will be held on the following dates at the locations indicated.

Hearing 1: June 1, 1992, 6 p.m., Folsom Community Center, 52 Natoma Street (City Hall), Folsom, California

Hearing 2: June 2, 1992, 6 p.m., Folsom Community Center, 52 Natoma Street (City Hall), Folsom, California

ADDRESSES: Copies of the DEIR/DEIS may be requested at the following addresses: Regional Director, Bureau of Reclamation, Mid-Pacific Regional Office, 2800 Cottage Way, Sacramento, CA 95825–1898, Attention: MP–750; Folsom Community Development Department, 300 D Persifer Street, Folsom, CA 95630.

Copies of the DEIR/DEIS are available for inspection at the address above and at the following locations:

Agencies

Office of the Commissioner, Bureau of Reclamation, Technical Liaison Division, 1849 C Street, NW., Washington, DC 20240, telephone: (202) 343–4662 and:

Bureau of Reclamation, Library, room 167, Building 67, Denver Federal Center, Denver, CO 80225; telephone: (303) 236–6963.

Libraries

California State University, 2000 Jed Smith Drive, Sacramento, CA 95819

Sacramento County Library, 536 Downtown Plaza, Sacramento, CA 95814

Sacramento County Library, 638 Bidwell Street, Folsom, CA 95630

City Hall, 50 Natoma Street, Folsom, CA 95630

FOR FURTHER INFORMATION CONTACT: Mr. Bob Shaffer, Environmental Specialist, Bureau of Reclamation, Mid-Pacific Region, telephone (916) 978–5487; Mr. Brad Kortick, Community Development Director, city of Folsom, telephone (916) 355–7222.

HEARING PROCESS INFORMATION: Organizations and individuals wishing to present statements at a hearing should contact either Reclamation's Mid-Pacific Regional Office, or the city of Folsom at one of the above addresses to announce their intention to participate. Requests for scheduled presentations will be accepted through 4 p.m. on May 5, 1992, and may also be made at each hearing. Requests should indicate at which hearing the speaker wishes to appear. Advance requests will be called before requests made at the hearings. Oral comments will be limited to 10 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 at the above addresses by May 21, 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 statement.

Note: If special assistance is required, contact Mr. Bob Shaffer at (916) 978–5487. Please notify Mr. Shaffer as far in advance of the hearings as possible and no later than May 1, 1992 to enable Reclamation 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: April 1, 1992.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 92–9619 Filed 4–23–92; 8:45 am]

BILLING CODE 4310–09–M

Fish and Wildlife Service

Availability of a Supplement to the Draft Environmental Assessment/ Supplemental Environmental Impact Report to Amend the Short-Term Habitat Conservation Plan for Stephens' Kangaroo Rat in Riverside County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that a Supplement to the Draft Environmental Assessment/ Supplemental Environmental Impact Report (DEA/SEIR) concerning the proposed amendment to the section 10(a)(1)(B) permit to allow incidental take of the endangered Stephens' Kangaroo rat (*Dipodomys stephensi*) in Riverside County California, is available for public review. Comments and suggestions are requested. This notice is provided pursuant to section 10(c) of the Endangered Species Act, as amended (Act), and National Environmental Policy Act (NEPA) regulations (40 CFR 1506.6).

DATES: Written comments are requested 30 days after publication of this notice.

ADDRESSES: Persons wishing to review the Supplement to the DEA/SEIR may obtain a copy by writing the Riverside County Habitat Conservation Agency (RCHCA). Documents will be available for public inspection during normal business hours (8 a.m. to 5 p.m.) at the RCHCA and the Riverside Central Library. Written data or comments concerning the Supplement to the DEA/ SEIR should be submitted to the U.S. Fish and Wildlife Service, Carlsbad, California Field Office. Please reference permit number PRT–739678 with your comments.

Riverside County Habitat Conservation Agency, 12th Floor, Administrative Center, 4080 Lemon Street, Riverside, California 92501.

Riverside Central Library, Government Publications Section, 3581 Seventy Street, Riverside, California 92501–3651.

U.S. Fish and Wildlife Service, Carlsbad, California Field Office, 2730 Loker Avenue West, Carlsbad, California 92008.

FOR FURTHER INFORMATION CONTACT: Mr. Brooks at the Above Carlsbad, California Field Office.

SUPPLEMENTARY INFORMATION: The County of Riverside, California has applied to the U.S. Fish and Wildlife service (Service) for a proposed amendment to their existing incidental take permit that would authorize changes in the Stephens' kangaroo rat (SKR) reserve study area boundaries, and is known as the "second go-round boundary modifications." In general, this DEA/SEIR evaluates 23 modifications to the boundaries of seven study areas identified in the Habitat Conservation Plan (HCP) as potential sites for SKR reserves. A Notice of Availability of the DEA/SEIR was published by the Service in the Federal Register on February 4, 1992, (57 FR 4214), which initiated a 30-day comment period under NEPA.

Additional information is now available that is pertinent to decisions to be made by the RCHCA, California Department (CDF&G), and the Service. The document being noticed (Supplement to the DEA/SEIR) has been prepared to disclose this additional information and incorporate it by reference into the DEA/SEIR. The additional information does not substantively alter the conclusions in the DEA/SEIR, but does amplify and clarify the analysis of the proposed action and alternatives.

Dated: April 10, 1992.

Marvin L. Plenert,

Regional Director.

[FR Doc. 92–9576 Filed 4–23–92; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Cape Cod National Seashore, MA; Intent To Prepare an Environmental Impact Statement

In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190, the National Park Service (NPS), Cape Cod National Seashore (Seashore), is preparing an Environmental Impact Statement (EIS) to assess the impacts of alternative management strategies for the Seashore, which will be described in a General Management Plan (GMP). A range of alternatives will be formulated for natural and cultural resources protection, visitor use and interpretation, facilities development, and operations.

The NPS will hold public scoping meetings regarding the GMP/EIS during 1992, with specific dates and locations to be announced in the local media. The purpose of these meetings is to obtain both written and verbal comments concerning purpose of the Seashore, appropriate visitor use, and issues that need to be resolved. Persons wishing to provide input to the scoping process may also contact the Superintendent, Cape Cod National Seashore, Marconi Station, South Wellfleet, Massachusetts, 02663, or telephone (508) 349–3785.

The draft GMP/EIS is expected to be completed and available for public review in 1994. After public and interagency review of the draft document, comments will be considered, and a final EIS and Record of Decision will be prepared.

The responsible official is Marie Rust, Acting Regional Director, North Atlantic Region, National Park Service, 15 State Street, Boston, MA, 02109–3572.

Dated: April 7, 1992.

Steven H. Lewis,

Acting Regional Director.

[FR Doc. 92–9562 Filed 4–23–92; 8:45 am]

BILLING CODE 4310–70–M

Cape Cod National Seashore, South Wellfleet, MA, Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. app 1 § 10), that meetings of the Cape Cod National Seashore Advisory Commission will be held on Friday, May 1, and Friday, May 29, 1992.

The Commission was reestablished pursuant to Public Law 99–349, Amendment 24. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of the Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The commission members will meet at 1 p.m. on Friday, May 1, 1992, for a regular business meeting which will convene at Park Headquarters for the following reasons:

1. Adoption of Agenda.
2. Approval of Minutes of Previous Meeting.
3. Reports of Officers.
5. Superintendent's Report.
4. Low Impact Use—NPS Gateway Signs.
5. Mission/Vision for Cape Cod National Seashore.
6. General Management Plan—Public Involvement Strategy.
7. New Business.
8. Agenda for Next Meeting.
9. Date for Next Meeting.
10. Communications/public Comment.
11. Adjournment.

The commission members will meet for the second time in May at 1 p.m. on Friday, May 29, 1992, for a regular business meeting to convene at Park Headquarters for the following reasons:

1. Adoption of Agenda.
2. Approval of Minutes of Previous Meeting.
3. Reports of Officers.
4. Superintendent's Report.
5. Dune Cottages Update.
6. Nickerson Fund Nominations.
7. Discussion Concerning Improved Properties.
8. New Business.
9. Agenda for Next Meeting.
10. Date for Next Meeting.
11. Communications/public Comment.
12. Adjournment.

The business meetings are open to the public. It is expected that 15 persons will be able to attend each meeting in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission during the business meetings or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting.

Further information concerning these meetings may be obtained from the Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663.

Dated: April 8, 1992.

Steven H. Lewis,

Acting Regional Director.

[FR Doc. 92–9561 Filed 4–23–92; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 11, 1992. Pursuant to § 60.13 of CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by May 11, 1992.

Carol D. Shull,

Chief of Registration, National Register.

Alaska

Fairbanks North Star Borough-Census Area

Discovery Claim on Pedro Creek, Mile 16.5 Steese Hwy., Fairbanks vicinity, 92000498.

District of Columbia

District of Columbia State Equivalent

U.S. Chamber of Commerce Building, 1615 H St., NW., Washington, 92000499.

Illinois

Adams County

South Side German Historic District, Roughly bounded by 6th, 12th, Washington, Jersey and York Sts., Quincy, 92000484.

Cook County

Akin, Mrs. Henry F., House (Maywood MPS), 901 S. 8th Ave., Maywood, 92000487.

Belden Stratford Hotel, 2300 N. Lincoln Park West, Chicago, 92000485.

Frangenheim, William, House (Maywood MPS), 410 N. 3rd Ave., Maywood, 92000488.

Grow, Caroline, House (Maywood MPS), 603 N. 6th Ave., Maywood, 92000489.

Larson, Mads C., House (Maywood MPS), 318 S. 1st Ave., Maywood, 92000490.

Masonic Temple Building (Maywood MPS), 200 S. 5th Ave., Maywood, 92000491.

Maywood Fire Department Building (Maywood MPS), 511 St. Charles Rd., Maywood, 92000492.

Millward, Caroline, House (Maywood MPS), 502 N. 5th Ave., Maywood, 92000493.

Soffel, Albert, House (Maywood MPS), 508 N. 5th Ave., Maywood, 92000494.

Sullivan, Joseph P.O., House (Maywood MPS), 142 S. 17th Ave., Maywood, 92000495.

Thompkins, Jennie S., House (Maywood MPS), 503 N. 4th Ave., Maywood, 92000496.

Lake County

Deerpath Inn, 255 E. Illinois Rd., Lake Forest, 92000482.

La Salle County

Knuessl Building, 215–217 W. Main, Ottawa, 92000486.

Sangamon County

Washington Park, Bounded by Fayette Ave., Williams Blvd., Walnut St., MacArthur Blvd., S. Grand Ave. and Chatham Rd., Springfield, 92000483.

Kentucky

Henderson County

South Main and South Elm Streets Historic District, Roughly bounded by Washington, Center, S. Green, Jefferson, S. Main and Water Sts., Henderson, 92000500.

Nebraska

Boone County

U.S. Post Office—Albion (Nebraska Post Offices Which Contain Section Artwork MPS), 310 W. Church St., Albion, 92000475.

Colfax County

U.S. Post Office—Schuyler (Nebraska Post Offices Which Contain Section Artwork MPS), 119 E. 11th St., Schuyler, 92000476.

Dawes County

U.S. Post Office—Crawford (Nebraska Post Offices Which Contain Section Artwork MPS), 144 Main St., Crawford, 92000477.

Fillmore County

U.S. Post Office—Geneva [Nebraska Post Offices Which Contain Section Artwork MPS]. 204 N. 4th St., Geneva, 92000478.

Holt County

U.S. Post Office—O'Neill [Nebraska Post Offices Which Contain Section Artwork MPS]. 204 N. 4th St., O'Neill, 92000479.

Kearney County

U.S. Post Office—Minden [Nebraska Post Offices Which Contain Section Artwork MPS]. 410 N. Minden St., Minden, 92000471.

Keith County

U.S. Post Office—Ogallala [Nebraska Post Offices Which Contain Section Artwork MPS]. 301 N. Sprue St., Ogallala, 92000481.

Nemaha County

U.S. Post Office—Auburn [Nebraska Post Offices Which Contain Section Artwork MPS]. 1320 Courthouse Ave., Auburn, 92000480.

Pawnee County

U.S. Post Office—Pawnee City [Nebraska Post Offices Which Contain Section Artwork MPS]. 703 G St., Pawnee City, 92000472.

Thayer County

U.S. Post Office—Hebron [Nebraska Post Offices Which Contain Section Artwork MPS]. 145 N. 15th St., Hebron, 92000473.

Webster County

U.S. Post Office—Red Cloud [Nebraska Post Offices Which Contain Section Artwork MPS]. 300 N. Webster, Red Cloud, 92000474.

Puerto Rico

Toa Baja Municipality

Santa Elena Hacienda, N of Hwys. 2 and 165 jct., Toa Baja. 83004662.

The following property was erroneously listed in St. Croix County, Wisconsin, on the previous pending list:

Michigan

Menominee County

R.J. Hackett (steamer) Shipwreck Site, Address Restricted, Menominee vicinity, 92000464.

[FR Doc. 92-9560 Filed 4-23-92; 8:45 am]

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).

A. 1. Parent Corporation and address of principal office: Bunzl Distribution USA, Inc., 701 Emerson Road, suite 410, St. Louis, MO 63141.

2. Wholly owned subsidiaries which will participate in the operations, and State(s) of incorporation:

Subsidiary	Assumed name	State of inc.
Alliance Paper & Packaging Company	Bunzl Packaging	New York.
Bennett Paper Company	Bunzl Bennett	Pennsylvania.
Bunzl Boston, Inc.	No Assumed Name	Massachusetts.
Bunzl California, Inc.	Bunzl Supermarkets	California.
Bunzl Columbus, Inc.	No Assumed Name	Ohio.
Bunzl New Jersey, Inc.	No Assumed Name	New Jersey.
Bunzl Reading, Inc.	No Assumed Name	Pennsylvania.
Bunzl South Florida, Inc.	No Assumed Name	Florida.
Bunzl USA Tampa, Inc.	Bunzl Tampa	Florida.
Bunzl Utah, Inc.	Bunzl Salt Lake City	Utah.
Capital Consolidated, Inc.	Bunzl Indianapolis	Indiana.
	Bunzl Evansville	
	Bunzl Louisville	
	Bunzl Pritty Pak	
Cast-Away Products, Co.	No Assumed Name	New Jersey.
Consolidated Packaging, Inc.	Bunzl Denver	Oklahoma.
	Bunzl Oklahoma City	
	Papercraft Southwest	
E. Greene and Company, Inc.	Bunzl New York	New York.
The Label Company, Inc.	No Assumed Name	Missouri.
Liberty Paper & Bag Company	Bunzl Detroit	Michigan.
Mac-Pak, Inc.	Bunzl/Mac-Pac	Kentucky.
	Papercraft Southwest	
Packaging Consultants, Inc.	Bunzl St. Louis	Missouri.
	Bunzl Chicago	
Packaging Materials, Inc.	Bunzl Minneapolis	Minnesota.
Packaging Products Corporation of America	Bunzl Dallas	Wisconsin.
Packaging Supply Company, Inc.	Bunzl Atlanta	Georgia.
Bunzl Richmond, Inc.	No Assumed Name	Virginia.
Papercarft, Inc.	No Assumed Name	California.
W.E. Buehler Paper Co.	No Assumed Name	Ohio.
Western Packaging, Inc.	Bunzl Houston	Texas.
Y-Not Better Papers, Inc.	Papercraft Southwest	Texas.

B. 1. Parent Corporation: Pitt-Des Moines, Inc., 3400 Gran Avenue, Pittsburgh, Pennsylvania 15225.

2. Wholly Owned Subsidiary: Hartwig Mfg. Corp., 5801 Packer Drive, Wausau, Wisconsin 54402 (Incorporated in Wisconsin).

C. 1. Parent corporation and address of principal office: Pressure Vessel Service, Inc., d/b/a PVS Chemicals, Inc., 10900 Harper Avenue, Detroit, Michigan 48213.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Chemical Transport Services, Inc.—Michigan

(ii) Dynecol, Inc.—Michigan.

(iii) Fanchem Ltd.—Canada.

(iv) PVS Chemicals, Inc. (Illinois)—Michigan.

(v) PVS Chemicals, Inc. (New York)—Michigan.

(vi) PVS Chemicals, Inc. (Ohio)—Michigan.

(vii) PVS Chemicals, Inc. (Texas)—Michigan.

(viii) PVS-Nolwood Chemicals, Inc.,—Michigan.

(ix) PVS Quimicos de Puerto Rico, Inc.—Michigan.

(x) PVS Technologies, Inc.—Michigan.

D. 1. Parent Corporation: VF Corporation, 1047 North Park Road, Wyomissing, PA 19610.

2. (a) Wholly-owned subsidiaries and divisions which will participate in the operations:

Bassett-Walker, Inc., State of Incorporation—Virginia
Blue Bell, Inc., State of Incorporation—Delaware (including Red Kap Industries, WorkWear, Girbaud and Wrangler divisions)
Health-Tex, Inc., State of Incorporation—Delaware
Jantzen, Inc, State of Incorporation—Nevada
Jansport, Inc., State of Incorporation—Delaware
Kay Windsor, Inc., State of Incorporation—Pennsylvania
The Lee Apparel Company, Inc., State of Incorporation—Pennsylvania
Modern Globe, Inc., State of Incorporation—Delaware
VF Factory Outlet, Inc., State of Incorporation—Delaware
Vanities Unlimited, Inc., State of Incorporation—Delaware (including Barbizon division)
Vanity Fair Mills, Inc., State of Incorporation—Pennsylvania (including Vassarette division)

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–9584 Filed 4–23–92; 8:35 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514–4305. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Alien Address Report Card
(2) I–104. Immigration and Naturalization Service
(3) On occasion
(4) Individuals or households.

This form is to be used by aliens to report their current addresses, upon a ten-day notice, only when required by the Attorney General under Section 265 of the I&N Act.

(5) 1 annual response at 1 hour per response
(6) 1 annual burden hour
(7) Not applicable under 3504(h)

Public comment on these items is encouraged.

Dated: April 20, 1992.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 92–9558 Filed 4–23–92; 8:45 am]

BILLING CODE 4410–10–M

Drug Enforcement Administration

Louise B. Piper, D.V.M.; Revocation of Registration

On September 16, 1991, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to Louise B. Piper, D.V.M., of Cape Fear Animal Hospital, Highway 133, Southport, North Carolina 28461. The Order to Show Cause sought to revoke her DEA Certificate of Registration, AP8735524, and to deny any pending applications for renewal of such registration.

The Order to Show Cause was sent to Dr. Piper by registered mail and was returned to DEA unclaimed. DEA Investigators were advised by local law enforcement detectives that Dr. Piper and her husband had sold their home and business and left the United States destined for New Zealand. DEA Investigators have confirmed that the Pipers did not return on their scheduled flight. It is not known whether the Pipers intended to return to the United States. In light of the fact that Dr. Piper is no longer in the United States, and there is no indication that she will be returning in the near future, Dr. Piper is deemed to have waived her opportunity for a hearing. The Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Order to Show Cause alleged that Dr. Piper's continued registration would be inconsistent with the public interest as that term is used in 21 U.S.C. 823(f) and 824(a)(4). The investigative file reveals that on October 12, 1989, DEA Investigators conducted an audit of several controlled substances ordered by Dr. Piper between January 1, 1988, and October 12, 1989. Substantial shortages, ranging from 98.6% to 100% for controlled substances including propoxyphene, diethylpropion hydrocloride, Placidyl capsules, Idenal tablets, Hycodan tablets and Darvocet-N100, were discovered. These shortages indicate a failure to keep complete and

accurate records of controlled substances as required by 21 U.S.C. 827(a)(3).

During a previous inspection of Dr. Piper's registered premises, Dr. Piper told the DEA Investigators that she had not maintained a biennial inventory of all controlled substances as required by 21 U.S.C. 827(a)(1). Dr. Piper also admitted that she kept a supply of a Schedule III controlled substance, Hycodan, at her personal residence, although that residence was not a registered location.

As a result of Dr. Piper's failure to maintain the requisite records as required by the Controlled Substances Act, on March 13, 1991, the U.S. District Court for the Middle District of North Carolina entered a $50,000 civil default judgement against Dr. Piper.

DEA Investigators suspected that Dr. Piper was obtaining controlled substances for her husband, Arthur Piper. Arthur Piper is an alleged drug abuser who was arrested in January 1990, for attempting to obtain controlled substances by fraud or forgery by using a prescription issued by his wife, Dr. Piper.

The Administrator finds that Dr. Piper ordered excessive quantities of controlled substances (Schedules III and IV), which purchases were neither in the course of her professional practice as a veterinarian nor for a legitimate medical purpose. Further, Dr. Piper failed to abide by the recordkeeping requirements of the Controlled Substances Act. Having considered all the material presented in the investigative file, the Administrator determines that Dr. Piper's actions have shown a lack of respect for the requirements of the Controlled Substances Act and concludes that Dr. Piper's continued registration would not be in the public interest.

It is clear that Dr. Piper is no longer practicing veterinary medicine at the address listed on her DEA Certificate of Registration. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that Dr. Piper's DEA Certificate of Registration, AP8735524, be, and it hereby is, revoked and that any pending applications for renewal of such registration be, and they hereby are denied.

This order is effective April 24, 1992.

Dated: April 16, 1992.

Robert C. Bonner,

Administrator of Drug Enforcement.

[FR Doc. 92-9556 Filed 4-23-92; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

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 19 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 supersedeas 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 party 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.

Corrections to General Wage Determination Decisions

Pursuant to the provisions of the Regulations set forth in title 29 of the Code of Federal Regulations, part 1, § 1.6(d), the Administrator of the Wage and Hour Division may correct any wage determination that contains clerical errors.

Corrections being issued in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are indicated by Volume and are included immediately following the transmittal sheet(s) for the appropriate Volume(s).

Volume III:

Wage Decision No. CA90-2, Modification Nos. 9 through 11.

Wage Decision No. CA91-4, Modification Nos. 3 through 7.

Pursuant to the Regulations, 29 CFR part 1, § 1.6(d), such corrections shall be included in any bid specifications containing the wage determinations, or in any on-going contracts containing the wage determinations in question, retroactively to the start of construction.

Supersedes Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their date of notice in the **Federal Register** are listed with each State. Supersedes decision numbers are in parentheses following the number of the decisions being superseded.

Missouri, MO91–2 (February 22, 1991) (KS91–12).	p. All.

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 numbers(s).

Volume II:

Kansas, KS91–12 (April 24, 1992).	p. All.

Volume III:

Colorado, CO91–11 (April 24, 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

Georgia, GA91–3 (February 22, 1991).	p. All.
New York, NY91–2 (February 22, 1991).	p. 777, pp. 782–783, pp. 792–793.

Volume II

Illinois:	
IL91–1 (February 22, 1991).	p. 69, pp. 73–76.
IL91–17 (February 22, 1991).	p. 225, pp. 227, 229–230.
Kansas, KS91–6 (February 22, 1991).	p. 363, pp. 364–367.
Missouri:	
MO91–2 (February 22, 1991).	p. 673, pp. 674–684.
MO91–7 (February 22, 1991).	p. 711, pp. 712–716.
Ohio, OH91–34 (February 22, 1991).	p. All.
Wisconsin, WI91–11 (February 22, 1991).	p. 1259, p. 1260.

Volume III

Arizona, AZ91–2 (February 22, 1991).	p. All.
California:	
CA91–1 (February 22, 1991).	p. All.
CA91–4 (February 22, 1991).	p. All.
Hawaii, HI91–1 (February 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 17th day of April 1992.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92–9409 Filed 4–23–92; 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 May 4, 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 later than May 4, 1992.

The petitions 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 13th day of April 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Sensus Tech., Inc. (USA)	Uniontown, PA	04/13/92	03/29/92	27,106	Water Meters and Registers.
K P Exploration, Inc. (Wkrs)	Houston, TX	04/13/92	02/24/92	27,107	Oil and Gas.
Valeo Engine Cooling (Wkrs)	Jamestown, NY	04/13/92	04/01/92	27,108	Heat Transfer Products—Auto.
Zwicker Knitting Mills (Wkrs)	New York, NY	04/13/92	04/03/92	27,109	Accessary Knit Goods.
Zwicker Knitting Mills (Wkrs)	Oconto, WI	04/13/92	03/30/92	27,110	Accessary Knit Goods.
General Electric Appliance Control (Wkrs)	Carroll, IA	04/13/92	03/30/92	27,111	Timers, Relays and Switches.
Crucible Specialty Metals Corp. (USWA)	Syracuse, NY	04/13/92	04/01/92	27,112	Steel Bars, Rods, Wire, CPM Products.
North Star Steel Co. (USWA)	St. Paul, MN	04/13/92	04/01/92	27,113	Oil Well Sucker Rod.

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
M-I Drilling Fluids Co. (Co)	Anchorage, AK	04/13/92	04/02/92	27,114	Provides Drilling Mud.
Eastman Christensen (Wkrs)	Lafayette, LA	04/13/92	04/03/92	27,115	Oilfield Equipment.
Times Corp. (IAM)	Waterbury, CT	04/13/92	03/27/92	27,116	Watch Parts.
General Dynamics Electronics Div. (Wkrs)	San Diego, CA	04/13/92	03/17/92	27,117	Circuit Boards Cables and Harnesses.
Bethlehem Steel Corp. (USA)	Johnstown, PA	04/13/92	03/26/92	27,118	Auto Industry Parts/Specialty Steel.
Wilrig (USA), Inc. (Co)	Lafayette, LA	04/13/92	03/27/92	27,119	Oil and Gas.
NWL Control Systems (UAW)	Kalamazoo, MI	04/13/92	03/26/92	27,120	Precision Controls for Aerospace Indus.
Schlumberger Offshore Production (Wkrs)	Houma, LA	04/13/92	03/31/92	27,121	Oil and Gas.
Neese Industries (ACTWU)	Gonzales, LA	04/13/92	04/03/92	27,122	Rainsuits.
Neese Industries (ACTWU)	Livingston, LA	04/13/92	04/03/92	27,123	Rainsuits.
Computalog Wireline Services, Inc. (Co)	Alice, TX	04/13/92	03/30/92	27,124	Oil and Gas Exploration and Drilling.
Computalog Wireline Services, Inc. (Co)	Sequin, TX	04/13/92	03/30/92	27,125	Oil and Gas Exploration and Drilling.
Smith International (Wkrs)	Alice, TX	04/13/92	04/01/92	27,126	Rock and PDC Bits.
Smith International (Wkrs)	Victoria, TX	04/13/92	04/01/92	27,127	Rock and PDC Bits.
Smith International (Wkrs)	Corpus, Christi, TX	04/13/92	04/01/92	27,128	Rock and PDC Bits.
Cricketeer Manufacturing Co. (ACTWU)	Harrodsburg, KY	04/13/92	04/01/92	27,129	Men's Clothing.
Joseph and Feiss Co. (ACTWU)	Cleveland, OH	04/13/92	04/01/92	27,130	Men's Clothing.
Maxus Energy Corp. (Wkrs)	Dallas, TX	04/13/92	03/31/92	27,131	Oil and Gas.
Teledyne Movible Offshore, Inc. (Wkrs)	Lafayette, LA	04/13/92	03/31/92	27,132	Oil and Gas.
Clayton W. Williams, Jr., Inc. (Wkrs)	Houston, TX	04/13/92	04/02/92	27,133	Oil and Gas.
Clayton W. Williams, Jr., Inc. (Wkrs)	San Antonio TX	04/13/92	04/02/92	27,134	Oil and Gas.
Maxus Energy Corporation (Wkrs)	Amarillo, TX	04/13/92	03/31/92	27,135	Oil and Gas.
Teledyne Movible Offshore, Inc. (Wkrs)	New Iberia, LA	04/13/92	03/31/92	27,136	Oil and Gas.

[FR Doc. 92-9612 Filed 4-23-92; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-26,900]

William Brooks Shoe Co., Nelsonville, OH; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 24, 1992 in response to a worker petition which was filed on February 24, 1992 by the Amalgamated Clothing and Textile Workers Union on behalf of workers at William Brooks Shoe Company, Nelsonville, Ohio.

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 16th day of April, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-9613 Filed 4-23-92; 8:45 am]
BILLING CODE 4510-30-M

Office of the Assistant Secretary for Veterans' Employment and Training

Advisory Committee on Veterans' Employment and Training; Establishment

In accordance with the provisions of the Federal Advisory Act and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, the Secretary of Labor has determined that the establishment of the Advisory Committee on Veterans' Employment and Training is in the public interest in connection with the performance of duties imposed on the Department by the Veterans' Benefits Amendments Act of 1991 (Pub. L. 102-16).

The Committee will advise the Secretary of Labor on veterans' employment and training needs, assess existing Department of Labor programs, determine the extent to which the programs and activities of the Department of Labor are meeting such needs, and carry out such other activities that are necessary to make recommendations, and to report not later than July 1 of each year to the Secretary of Labor on the employment and training needs of veterans.

The Committee will consist of at least 12, but not more than 18, individuals who will serve as members of the Committee consisting of representatives nominated by veterans' organizations that are chartered by Federal law and have a national employment program, and no more than 6 individuals who are recognized authorities in the fields of business, employment, training, rehabilitation, or labor and who are not employees of the Department of Labor.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter has been filed under the Act.

Interested persons are invited to submit comments regarding the establishment of the Advisory Committee on Veterans' Employment and Training. Such comments should be addressed to Robin L. Higgins, Deputy Assistant Secretary for Veterans' Employment and Training, at 202-523-9116.

Signed at Washington, DC, this 20th day of April, 1992.

Lynn Martin,

Secretary of Labor.

[FR Doc. 92-9610 Filed 4-23-92; 8:45 am]
BILLING CODE 4510-79-M

Pension and Welfare Benefits Administration

[Application No. D-8634, 8636, et al.]

Proposed Exemptions; Communications Workers of America Pension and Death Benefit Trust Fund; The National Paint and Coatings Assoc., Inc. Pension Trust, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

WRITTEN COMMENTS AND HEARING REQUESTS: All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name,

address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N–5649, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N–5507, 200 Constitution Avenue NW., Washington, DC 20210.

NOTICE TO INTERESTED PERSONS: Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Communications Workers of America Pension and Death Benefit Trust Fund (the CWA Pension Plan); and The National Paint and Coatings Association, Inc. Pension Trust (the NPC Plan; together, the Plans) Located in Washington, DC

[Application Nos. D–8634 and D–8636]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed cash sale by the Plans of certain participations (the Participations) in a real estate loan (the Loan) secured by certain deeds of trust held by the respective Plans, to First American Bank (FAB), a party in interest with respect to the Plans, provided the following conditions are satisfied: (1) The sales are one-time transactions for cash; (2) each Plan receives an amount representing the greater of (a) the fair market value of the Participation held by it as of the date of the sale, or (b) the outstanding principal balance of the Participation, plus accrued interest, at the time the transaction is consummated; and (3) at the time the transaction is consummated, a qualified, independent appraiser has appraised the property securing the Loan and valued the Participations, and determined that the sales price is no less than the current fair market value of the Participations.

Summary of Facts and Representations

1. The CWA Pension Plan is a defined benefit plan which had 882 participants and assets with a fair market value of approximately $171,254,924 as of December 31, 1991. The NPC Plan is a defined benefit plan which had 32 participants and assets of approximately $2,010,093 as of December 31, 1991.

2. The applicants have requested an exemption to consummate two similar transactions. FAB proposes in each case to purchase from the Plans Participations in a Loan secured by first deeds of trust on certain real property (the Property) located in the District of Columbia. FAB, in its fiduciary capacity, invested the Plans' assets in these Participations. Each of the Participations is currently in default as a result of the borrower's failure to pay interest on the Loan when due.[1] The Loan is an "interest only" loan, the unpaid principal balance of which became due and payable on default, together with accrued and unpaid interest. By consummating the purchase of the Participations, FAB will pay to the Plans the full amount of unpaid principal on the Participations and the amount of interest accrued and unpaid from the date of default to the date of its purchase.[2] FAB will thereby assume the risk of collection and, if necessary, disposal of the collateral.

3. The Loan can be described as follows: On April 1, 1988, FAB extended a loan in the principal amount of $1,000,000 to Mr. Mark A. Lobar, secured by the Property, which is a single family residence located at 3112 N Street NW., Washington, DC. The Loan was for a term of 5 years, with interest payable monthly at a rate of 10.5% per annum and principal due at maturity. Initially, two personal trust accounts for which FAB acted as trustee held participations in the Loan totalling $500,000, with the remaining Participations being held by the NPC Plan and the CWA Pension Plan in the amounts of $200,000 and $300,000, respectively. In connection with an examination of FAB's Trust Department by the Comptroller of the Currency (the Comptroller), FAB was required by the Comptroller in 1988 to purchase the participations held by the personal trusts. The outstanding balances now owed to the Plans are, in the case of the CWA Pension Plan, $300,000 plus $62,202 in accrued interest through December 31, 1991 and, in the case of the NPC Plan, $200,000 plus $41,468 in accrued interest through December 31, 1991. In addition to the lien securing the Participations, the Property is subject to three additional liens: A second lien in the principal

[1] The Department notes that the decisions to acquire and hold the Participations are governed by the fiduciary responsibility requirements of part 4, subtitle B, title I of the Act. In this regard, the Department herein is not proposing relief for any violations of part 4 of the Act which may have arisen as a result of the acquisition and holding of the Participations.

[2] The Department wishes to point out that the exemptive relief being proposed herein extends only to those sections of the Act as described above. In this regard, the Office of the Comptroller of the Currency has informed the Department that a transaction that may be prohibited under the Act also may be a violation of the National Bank Act or constitute an unsafe or unsound banking practice, and that the exemption does not address the safety and soundness or the legality of the proposed transaction under the National Bank Act. Accordingly, FAB should satisfy itself that the transaction does not violate the National Bank Act or constitute an unsafe or unsound banking practice.

amount of $545,000 held by an unknown party; a third lien in the principal amount of $750,000 held by FAB in its individual capacity; and a fourth lien in the amount of $3 million held by First American Title Insurance Company (an entity unrelated to FAB). Thus, the total liens against the Property, exclusive of interest, are $4,795,000.

4. Initial payment defaults on the Loan occurred during the months of May, June and July, 1990. FAB has retained the services of J. Lee Donnelly & Son (Donnelly), independent real estate appraisers in Chevy Chase, Maryland, to appraise the Property to determine its current fair market value. Donnelly has appraised the Property as having a fair market value of $1,150,000 as of December 3, 1991. Thus, the total liens against the Property are more than four times greater than the Property's current fair market value.

5. Donnelly also provided an analysis of the marketability of the Participations. Donnelly's analysis included a review of the security for the Participations, alternative investment opportunities, the non-liquidity features of the Participations, and the risk factors involved. Donnelly has represented that if a market were available for the Participations, they could only be sold at a discount from the par amount. Thus, the proposed purchase by FAB at face value plus accrued interest would provide the Plans with value in excess of the Participations' current fair market value.

6. Because FAB retains full investment discretion with respect to the Participations, the investment decision to sell the Participations continues to be the sole responsibility of FAB. However, in view of the nature of the sale and the fact that it would be prohibited in the absence of the exemption proposed herein, FAB has obtained the consent of certain cofiduciaries of each of the Plans to engage in the transaction. The CWA Pension Plan trustees consist of two individual trustees and FAB. All trustees account to the Employee Pension Committee (the EPC) appointed by the President of the CWA and approved by its Executive Board. The EPC has been informed of the proposed sale and has consented thereto. The NPC Plan is administered by a board of individual trustees which retains the authority to retain investment managers. FAB is the sole investment manager. The individual trustees have been informed of the proposed sale and have consented thereto.

7. FAB represents that the Loan is currently in default. Although the Participations are transferrable, FAB represents that no market exists for the Participations unless the holders are willing to accept a substantial discount on the principal amount of the Participation (see rep. 5, above). In the absence of the proposed exemption, FAB represents that each of the Plans would have to attempt to recover its investment through collection efforts against the borrower. FAB represents that such collection efforts are likely to be unsuccessful. Current market conditions are such that it is far from certain that the Property could be sold at foreclosure for an amount sufficient to fully satisfy the Plans' debt.

8. In summary, the applicant represents that the proposed transaction satisfies the criteria contained in section 408(a) of the Act because: (1) The sale of the Participations will be a one-time transaction for cash; (2) the Plans will sell the Participations to FAB for the greater of the current fair market value of the Participations, or the outstanding principal balance of the Participations plus accrued interest at the time the sale is consummated; and (3) the Participations have been appraised by a qualified, independent appraiser, Donnelly, who has determined that the fair market value of the Participations is currently less than the outstanding principal balance of the Participations plus accrued interest.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Marquette Bank Minneapolis, N.A. Employee Benefit Select Fixed Income Contract Fund (the Fund) Located in Minneapolis, Minnesota

[Application No. D–8652]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847 August 10, 1990). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale (the Sale) of certain assets of the Fund (the Assets) by the Fund to Marquette Bank Minneapolis, N.A. (the Bank), a party in interest with respect to the Fund, for the greater of either (1) the aggregate fair market value of the Assets, as determined by a qualified, independent appraiser, plus the face value of any contracts for deed and mortgage notes that have matured and remain unpaid on the date of the Sale, or (2) the aggregate value of the Assets on July 31, 1990, as determined by the regular valuation procedures of the Bank,[3] and reduced by the amount of distribution to participants of the Fund for the period beginning on August 1, 1990, and ending immediately prior to the sale.

Summary of Facts and Representations

1. The Bank is a national banking association which is organized under the laws of the United States of America and regulated by the Comptroller of the Currency. It is a full-service bank with 21 branches located throughout the seven-county Minneapolis/St. Paul metropolitan area. As of December 31, 1990, the Bank had total deposits of $1.85 billion and total assets of $2.2 billion. The Bank is a subsidiary of Bank Shares Incorporated, a Minnesota corporation, that is a registered bank holding company under the Bank Holding Company Act of 1956, as amended. Both the Bank and Bank Shares Incorporated maintain their principal office at Sixth Street and Marquette Avenue, Minneapolis, Minnesota.

2. The Fund is collective investment fund established by the Bank in 1979 to provide investment opportunities for tax-qualified retirement plans (the Plans) for which the Bank functions as trustee, custodian, or agent. The Assets of the Fund consist of debt obligations secured by first or second liens on real property in the form of mortgages, vendor's interests in contracts for deed, and parcels of real property which have been obtained through foreclosures. The investment objective of the Fund is to maximize current income through the investment of its Assets. The real property underlying the contracts for deed and mortgage notes of the Fund is located exclusively in the greater Minneapolis/St. Paul metropolitan area and consists of owner-occupied or rental single or multiple family residential dwellings.

3. The Fund is divided into Units of equal value. The proportionate interest of each Plan participating in the Fund is expressed by the number of Units allocated to its account in the Fund. As of March 1991, 35 Plans held Units in the Fund. With the exception of one (a defined benefit plan), all the Plans participating in the Fund are defined

[3] The Bank represents that since 1983, it has valued debt obligations by a formula developed by Arthur Anderson & Co. and approved by the Comptroller of the Currency (Arthur Anderson formula).

contribution plans, which include 7 money purchase plans and 27 profit sharing plans. Units are held by individually directed participant accounts in some Plans, and in the general account of other Plans. The percentage of the total assets of a Unit-holder which is invested in the Fund ranges from 0.37 percent to 100 percent.

4. The applicant represents that through 1988 the returns of the Fund were excellent. As a result of the success of the Fund, it attracted significant new additional investments by its participating Plans and by the admission of new Plans. Commencing in 1987, the availability of quality debt obligations as investments for the Fund declined. The applicant attributed the decline to the generally depressed real estate market and to changes in the tax laws effected the prior year. The changes in the tax laws were represented by the applicant to significantly reduce the tax advantages associated with passive real estate investments. These two factors are represented to have depleted the equity in real estate investments underlying the investment portfolio of the Fund, and to have caused a high occurrence of defaults on such investments.[4] The applicant represents that since 1988 the increasing occurrence of defaulting contracts for deed and mortgage notes held by the fund and their declining rate of return resulted in requests for withdrawal from the Fund that exceeded the availability of its liquid assets. On May 19, 1989, to ensure equal treatment of participants in the Fund and to permit an orderly liquidation and distribution of assets, the Fund was terminated effective May 31, 1989. At termination the Assets of the Fund were placed in a liquidating account. No new participants or deposits have been accepted by the Fund after April 30, 1989.

5. Since June 1, 1989, the Bank has undertaken to liquidate all Assets of the Fund over a three-year period with the assumption that the liquidation can be done at prices and terms that will be fair to Plans participating in the Fund and consistent with the fiduciary obligations of the Bank under the Act. Liquidation proceeds are applied first to benefit requests, then to withdrawal requests outstanding as of April 30, 1989, and finally to make pro rata distributions to all Plans participating in the Fund.

Although the Bank has made and will continue to make efforts to liquidate the remaining Assets of the Fund, because of impending maturity dates and high risks of default coupled with the current depressed market conditions, it is foreseeable that the Bank will be able to dispose of the Assets only for significant discounts resulting in material losses to the Fund and its Unit-holders. In order to avoid such material losses to the Fund and its Unit-holders, the Bank proposes to purchase all the Assets of the Fund.

The Bank proposes to make a single cash payment to the Fund on the date of the Sale for the greater amount of either (a) the aggregate appraised fair market value of all the contracts for deed, mortgage notes, and real property owned by the Fund plus the face value of any contracts for deed and mortgage notes that have matured and remain unpaid on the date of the Sale, or (b) the aggregate value of all contracts for deed and mortgage notes owned by the Fund on July 31, 1990, as determined by the regular valuation procedures (Arthur Anderson formula) of the Bank (the Fund owned no real property as of July 31, 1990), reduced by the amount of distributions to participants of the Fund for the period beginning August 1, 1990, and ending immediately prior to the Sale. All fees and costs, including costs for appraisers of the Assets of the Fund, will be paid by the Bank.

6. Financial Data Services of Minneapolis, Minnesota was retained by the Bank to give an independent appraisal of 55 contracts for deed and mortgage notes owned by the Fund, as of March 31, 1991. The appraisal determined that the 55 contracts for deed and mortgage notes had fair market value of $1,527,985.96. In addition, there were 14 contracts for deed and mortgage notes, which had matured on or before March 31, 1991, and had not been paid, that had an aggregate face value of $489,006.64 on March 31, 1991. Thus, the applicant represents that the total value of 65 contracts for deed and 4 mortgage notes owned by the Fund, as of March 31, 1991, was $2,016,992.60.

Chase-Brockett Company of Minneapolis, Minnesota was retained by the Bank to give an independent appraisal of 16 parcels of real property owned by the Fund, as of March 31, 1991. The appraisals determined that the 16 parcels of real property had a fair market value of $870,500. The 3 remaining parcels of real property owned by the Fund had executed purchase agreements submitted by unrelated persons for the aggregate purchase price of $149,712.15. However, as of March 31, 1991, the real property owned by the Fund was subject to mortgages with a total balance owning of $355,885.43 and total property taxes arrearages of $29,535.57. Thus, the net fair market value of the real property owned by the Fund as of March 31, 1991, was $634,791.15. The total value of the Fund (as determined by independent appraisals, face amount of matured contracts for deed or mortgage notes, and executed purchase agreements) was $2,651,783.75 ($2,016,992.60 plus $634,791.15).

7. With respect to the alternative value of the fund determined by using the Arthur Anderson formula, the applicant represents that the aggregate Arthur Anderson formula value of the 132 contracts for deed and 6 mortgage notes owned by the Fund as of July 31, 1990, was $4,565,110.66. Other assets of the Fund (i.e., receivables, short term investments, accrued interest, and cash), as of July 31, 1990, had an aggregate value of $779,291.87 with accrued audit fees of $4,574, resulting in an aggregate value of Fund assets, as of July 31, 1990, of $5,339,828.53.

For the period between August 1, 1990, and March 31, 1991, the sum of $1,662,597.98 was distributed to participating plans in the Fund and, thus, decreasing the Arthur Anderson formula value of the fund assets to the sum of $3,677,231.66, as of March 31, 1991.

Thus, the applicant represents that a sale of the assets using the Arthur Anderson formula as of July 31, 1990, would result in greater consideration to the Fund than if the fair market value of the assets were determined as of March 31, 1991. The additional consideration would be $1,025,447.91 ($3,677,231.66 rather than $2,651,783.75). The applicant further represents that the fair market value of the assets determined as of the actual date of sale should be less than the value as of July 31, 1990 using the Arthur Anderson formula. The Fund will receive the higher of (1) the fair market value on the date of the Sale, or (2) the July 31, 1990 value using the Arthur Anderson formula.

8. The applicant represents that the proposed transaction for which it has requested an exemption, complies with the national banking laws and will not have a material adverse financial impact upon the applicant. The applicant represents that it understands that in granting the exemption, the Department is not expressing an opinion as to whether or not the proposed

[4] The Department notes that the decisions to acquire and hold the Assets are governed by the fiduciary responsibility requirements of part 4, subtitle B, title I of the Act. In this regard, the Department herein is not proposing relief for any violations of part 4 of the Act which may have arisen as a result of the acquisition and holding of the Assets.

transaction complies with the national banking laws. Also, the applicant represents that it understands that granting the exemption will not limit or affect the authority of any other federal agency to review the transaction and take enforcement action against the applicant in connection therewith.[5]

9. The Bank selected the regular valuation date of July 31, 1990, as the base for determining the consideration for the Sale in order to avoid discounts in the value of Assets of the Fund attributable to revised loss reserve policies commenced subsequent to July 31, 1990. The value of the Units in the Fund was at a historic high as of the valuation on July 31, 1990. In response to the increasing frequency of defaulting Assets of the Fund, effective August 1, 1990, the Bank commenced new accounting procedures for the Fund, which established loss reserves for debt instruments in the process of foreclosure or delinquent 90 days or more.

The applicant represents that the Bank is willing to pay an amount for the Assets that will exceed the fair market value of the Assets as determined by an independent appraiser on the date of the Sale because of its commitment to stand behind the Fund. The Bank represents that it intends to insulate participating Plans from a declining value of the Assets of the Fund which is attributable to changing economic circumstances.

10. In summary, the applicant represents that the proposed transaction will satisfy the criteria of section 408(a) of the Act because (a) the Sale of the Assets is a one-time transaction for cash; (b) the participating Plans invested in the Fund will not be required to incur any expense for the Sale; (c) the consideration for the Assets of the Fund on the date of the Sale will not be less than the aggregate fair market value of such Assets on the date of the Sale as determined by an independent appraiser, plus the fact value of any contracts for deed and mortgage notes that have matured and remain unpaid; (d) the consideration paid for the Assets of the Fund may exceed the aggregate fair market value of the Assets of the Fund as determined by an independent appraiser on the date of the Sale and the face value of the matured and unpaid Assets, because the value of the Assets on July 31, 1990, reduced by subsequent distributions to participating Plans, should have a greater value; and (e) the Sale of the Assets of the Fund to the Bank will permit the expeditious liquidation and termination of the Fund and permit Plans participating in the Fund to reinvest their distribution of the proceeds in improved and new income-producing assets.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Toplis and Harding, Inc. Retirement Plan (the Plan) Located in New York, New York

[Application No. D–8861]

Proposed Exemption

The Department of Labor is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale by the Plan of certain units (the Units) in the Real Estate Fund No. 1 of the Continental Investment Trust for Employee Benefit Plans (the Fund) to Toplis and Harding, Inc. (Toplis), a party in interest with respect to the Plan, provided the following conditions are satisfied: (1) The sale is a one-time transaction for cash; (2) the Plan pays no commission with respect to the sale; and (3) the sales price will be the higher of (a) the Plan's cost for the Units, or (b) the fair market value of the Units on the date of the sale.

Summary of Facts and Representations

1. The Plan is a defined benefit plan which was terminated as of December 31, 1988 and has made all distributions to all participants. The applicant represents that the termination of the Plan received the approval of both the Internal Revenue Service and the Pension Benefit Guaranty Corporation. The only remaining asset in the Plan consists of the Units in the Fund, which is a collective investment fund maintained by Continental Bank.

2. The applicant represents that there is no market for the Units, and Continental Bank will not repurchase the Units from the Plan. Toplis has requested an exemption that will permit the Plan to sell the Units to Toplis, thus enabling the Plan to distribute the last of its assets. It is proposed that the net proceeds from the subject sale will be reallocated to the Plan participants on a pro rata basis, based upon the present value of their accrued benefits. The proceeds will then be distributed to the participants in cash.

3. Toplis has offered to buy the Units from the Plan at the higher of the Units' cost to the Plan or their fair market value as of the date of sale. The applicant represents that the cost of the Units to the Plan was $3,245.57. Mr. George Alpoqianis, Administrative Assistant at Continental Bank, the issuer of the Units, has represented that the Units had a fair market value of $3,476.08 as of July 31, 1991. Prior to the consummation of the transaction, the applicant will obtain a current statement from Continental Bank setting forth the fair market value of the Units.

4. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (1) The sale is a one-time transaction for cash; (2) no commissions will be paid by the Plan in connection with the sale; (3) the sale will permit the terminated Plan to distribute its final asset, with the proceeds to be reallocated to Plan participants on a pro rata basis; and (4) the Plan will receive the higher of the cost of the Units or their current fair market value as determined by the issuer of the Units.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Smart Chevrolet Co. Employees' Profit Sharing Retirement Plan (the P/S Plan) Located in Pine Bluff, Arkansas

Application No. D–8874

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The proposed secured loans (the Loans) by the P/S Plan to Motors Finance Company (Motors), a party in

[5] The Department wishes to point out that the exemptive relief being proposed herein extends only to those sections of the Act as described above. In this regard, the Office of the Comptroller of the Currency has informed the Department that a transaction that may be prohibited under the Act also may be a violation of the National Bank Act or constitute an unsafe or unsound banking practice, and that the exemption does not address the safety and soundness or the legality of the proposed transaction under the National Bank Act. Accordingly, the Bank needs to satisfy itself that the Sale does not violate the National Bank Act or constitute an unsafe or unsound banking practice.

interest with respect to the P/S Plan, and (2) the guaranty of such Loans (the Guaranty) by the individual partners of Motors; provided that the following conditions are met: (a) The terms and conditions of the Loans are at least as favorable as those which the P/S Plan could have received in similar transactions with an unrelated third party; (b) an independent fiduciary negotiates, reviews, approves, and monitors the Loans and the Guaranty under the terms and conditions, as set forth in paragraph #6 below; and (c) the balance of all Loans, plus the balance of any outstanding loans made pursuant to PTE 85–121, will at no time exceed 25% of the assets of the P/S Plan.[6]

Temporary Nature of Exemption

The proposed exemption is temporary and, if granted, will expire five (5) years after the date of the grant. However, the exemption will extend until the maturity of any of the 90 day Loans made within the 5 year period.

Summary of Facts and Representations

1. The P/S Plan is a defined contribution profit sharing plan which, as of October 25, 1991, had assets totaling $2,696,075. As of the same date, the P/S Plan had sixty (60) participants. Richard L. Smart (Mr. Smart) and S. Ray West, Jr. (Mr. West) are participants in and are the administrators of the P/S Plan. Smart Chevrolet Company (the Employer) is the sponsor of the Plan. The Employer sells new and used automobiles in the Pine Bluff, Arkansas area. As of the end of its most recent fiscal year, December 31, 1990, the Employer had a net worth of $2,683,009. Mr. Smart is the president of and shareholder in the Employer.

2. Motors is engaged in financing the purchase of new and used automobiles sold by the Employer to its customers. The net worth of Motors, as of December 31, 1990, the end of its most recent fiscal year, was $463,568. Certain of the principal owners of the Employer are also partners in Motors. Mr. Smart is a five percent (5%) managing partner in Motors. Meredith S. Maxwell, Felix Smart, Lee Smart, Roger Smart, and Mr. West, each own a fifteen percent (15%) partnership interest in Motors. The collective net worth of the partners of Motors, as of December 31, 1990, was $8,713,699. The net worth of the partners of Motors includes their respective interests in Motors, in the Employer, and in certain notes payable to its partners by Motors.

3. The current trustee of the P/S Plan is Worthen Trust Co., Inc. (Worthen Trust). Worthen Bank, a sister corporation to Worthen Trust, participates in a line of credit to supply the Employer and Motors with operating funds of from $100,000 to $200,000 daily. Mr. Smart is on the Trust Advisory Committee of Worthen Bank, is one of sixteen directors of Worthen Bank, and is a shareholder in Worthen Corporation, the parent of Worthen Trust and of Worthen Bank.

4. On July 8, 1985, (50 FR 27863), the Department granted an exemption (PTE 85–121) which permitted for a period of seven (7) years beginning July 8, 1985, certain loans to Motors by two employee benefit plans (the Plans) then sponsored by the Employer, and to the guaranty of such loans by the Employer and the individual partners of Motors. Subsequent to the grant of PTE 85–121, the Smart Chevrolet Employees Retirement Plan, one of the Plans which participated in the exemption for PTE 85–121, was merged into the P/S Plan.

It is represented that under the exemption Motors has made all payments on the loans in a timely manner and has never defaulted on any of the loans made by the Plans. As a result of such loans the Plans received an interest rate of between 7% to 9.5%, depending on the federal discount rate in effect at the time such loans were executed. Further, though the principal balance of these loans has varied from time to time, the terms and conditions of each of the loans complied with the requirements set forth in PTE 85–121. The aggregate fair market value of these loans by the Plans to Motors, as of the most recent annual report, was $616,931 which represented 24.4% of the fair market value of the total assets of both Plans. The applicant, herein, is requesting another exemption which will permit the continuation of such loans for a period of five (5) years beginning on the date of the grant of this proposed exemption.

5. The Pine Bluff National Bank (PBNB), has agreed to serve as the independent fiduciary. John P. Garrison (Mr. Garrison), president and chief executive officer of PBNB, represents that PBNB is independent in that none of the partners of Motors, or the stockholders, officers, or directors of the Employer are officers or directors of PBNB. In addition, Mr. Garrison represents that none of these persons are stockholders of PBNB, except Lynn Smart, the wife of Mr. Smart, who owns 854 shares, which represent a .0061% ownership percentage of PBNB. It is represented that the partners of Motors, the Employer and its officers, directors, and shareholders do not have any loans or accounts outstanding at PBNB. Further, PBNB represents that it does not participate in the line of credit extended to Motors by the Worthen Bank.

PBNB represents that it is qualified to act on behalf of the P/S Plan in that it has been involved for many years in making automobile installment loans and evaluating credit and collateral considerations related to such loans. PBNB also represents that it is knowledgeable in selecting appropriate rates of return on short term investments and will be continuously aware of the fluctuations in short term interest rates and the alternative low risk short term investments that would be available to the P/S Plan.

6. PBNB will accept fiduciary responsibility with respect to the proposed transactions. In this regard, PBNB will be responsible for determining whether it is advisable for the P/S Plan to enter into the Loans and the Guaranty which are the subject of this proposed exemption and to continue to participate in such transactions, taking into account the rate of return of such investment and the liquidity and diversification of the P/S Plan.

It is represented that PBNB will approve Loans in an amount not to exceed twenty-five percent (25%) of the assets of the P/S Plan, provided that all of the terms and conditions described herein are met. All Loans will have a maturity of ninety (90) days and will bear interest at a rate which is two percentage points above the federal discount rate. PBNB represents that such interest rate reflects the prevailing fair market interest rate on comparable investments. PBNB represents that it will receive copies of all the promissory notes evidencing the Loans in order to insure that the interest rate is two percent (2%) above the federal discount rate. If at any time a rate of two percentage points above the federal discount rate is not reflective of the prevailing fair market rate of return on a comparable ninety (90) day investment, PBNB indicates that the Loans should be liquidated at the next maturity date, or the yield on such Loans be increased to the then prevailing fair market rate.

The Loans will be secured by all of the installment sale contracts (the Contracts) of Motors. As of December 31, 1990, Motors had 924 outstanding Contracts totaling $5,041,781, with an average balance of $5,456 per Contract. PBNB has represented that it will

[6] For purposes of this proposed exemption references to specific provisions of title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

examine the security agreement and financing statements with regard to the Contracts and will ascertain that the P/S Plan's security interest in all of the Contracts is properly executed, and that such security interest is perfected by properly filed financing statements in conformity with the Uniform Commercial Code, as adopted in Arkansas. It is represented that PBNB through monthly reports from Worthen Bank will insure that at all times the aggregate face value of the Contracts equals at least 200% of the total outstanding balance of the Loans. It is further represented that if at the end of any month the report from Worthen Bank indicates that the aggregate face value of the Contracts does not equal at least 200% of the total outstanding balance of the Loans, PBNB will direct Motors to pay the Plan an amount sufficient to bring the Loans into compliance with the 200% collateral requirement.

PBNB, on behalf of the P/S Plan, has accepted the commitment of the Employer and Motors that the Contracts will conform to the following loan policy guidelines: (a) A complete credit history will be performed for each customer; (b) no Contracts will be entered with customers who have had a bankruptcy, loan default, or other derogatory credit history; (c) depending on the use of the vehicle, a customer equity of from 10% to 30% will be required; (d) with an extension of six months available in circumstances of minimal vehicle use, the maximum term of any of the Contracts will be 60 months on new and current year used vehicles, 48 months, 42 months, 36 months, 30 months, and 24 months, respectively, on one, two, three, four, and five year old vehicles; (e) prior to closing on any Contracts, a written certificate of insurance from an insurance agent will be required showing that the automobile is covered for physical damage with no more than a $250 deductible; (f) such insurance coverage includes fire, theft, and other perils and shows Motors as loss payee; and (g) Motors will employ a full time collector and strict management supervision will be maintained daily over collections.

Motors has represented that, if at any time, it changes the above-described loan policy guidelines it will notify PBNB. Therefore, it is the responsibility of PBNB to determine whether such changes materially affect the value of the Contracts. PBNB represents that if the value of the Contracts is materially affected, such Contracts will be excluded from the collateral which secures the Loans by the P/S Plan to Motors.

The Loans will also be secured by the Guaranty of the partners of Motors. In this regard, the partners of Motors have executed a blanket Guaranty in order to satisfy the requirements of PTE 85–121. PBNB is responsible for ascertaining that any Loans entered by the P/S Plan pursuant to this proposed exemption are also covered by this blanket Guaranty or, if necessary, a new Guaranty will be executed. In addition, it is represented that all of the partners in Motors are jointly and severally liable for the debts of the partnership, specifically including the Loans.

It is represented that from time to time in order to secure its line of credit to Motors, Worthen Bank may take a security interest in the Contracts. However, it is represented that such security interest will at all times be subordinated to 200% of the indebtedness of Motors to the P/S Plan. Further, it is represented that other notes payable from Motors to its partners will be subordinated to the Loans. As of December 31, 1990, a total amount of $2,273,270 was due to the partners of Motors under the terms of the notes, but such amount was subordinated, to the indebtedness of Motors to the Plans incurred under PTE 85–121.

In addition, it is represented that all of the Contracts provide Motors with recourse against the Employer for the amount of any defaulted Contracts. In this regard, should there be defaults on any of the Contracts, it is represented that the Employer will repurchase such Contracts from Motors after giving legal notice to the customer under Arkansas law. Once the Employer repurchases any defaulted Contracts, the Employer, not Motors, will repossess the vehicles. The Employer has informed the Department that for 1990 and 1991, the average number of Contracts equaled 1,025. Of these Contracts seventeen (17) vehicles were repossessed in 1990 and twenty (20) vehicles were repossessed through November 22, 1991. The Employer maintains that defaults and repossessions constitute a very small percentage of the total number of Contracts outstanding at any time.

In addition to the responsibilities outlined above, PBNB is responsible for monitoring Motors' compliance with the terms of the Loans and the Guaranty. In this regard, Mr. Garrison, on behalf of PBNB, has reviewed certain monthly reports (the Monthly Reports) which have been furnished to the First National Bank of Altheimer, the independent fiduciary under PTE 85–121. Mr. Garrison represents that such Monthly Reports are appropriate for the purposes of monitoring the proposed transactions. If this proposed exemption is granted, it is represented that similar Monthly Reports will be provided to PBNB and will be reviewed monthly by PBNB, or more frequently, as PBNB determines is necessary.

In addition, PBNB is responsible for receiving and reviewing the monthly financial statements on Motors and on the Employer and annual financial statements on the partners of Motors. PBNB represents that this information will assist PBNB in monitoring the credit worthiness of the Employer and Motors. If there are any material decreases in the net worth of any of the parties involved, it is represented that PBNB will liquidate the Loans at the next maturity date. In this regard, PBNB represents that it places the most significance on the ability of the Employer to repurchase any of the Contracts that are in default and confiders the net worth of the partners of Motors to be a secondary source of protection for the Plan. PBNB further represents if, in reviewing the monthly financial statements of the Employer, PBNB determines that a decrease in the net worth of the Employer has impaired the Employer's ability to repurchase any of the Contracts, PBNB will carefully review the aggregate net worth of the partners of Motors. After such review, if PBNB determines, based on its banking experience, judgment, and other factors, that the Plan is not properly protected, PBNB will instruct Worthen Trust to liquidate the Loans at the next maturity date. In the event of a default by Motors on the Loans, PBNB will be responsible for taking all necessary steps to protect the P/S Plan and for enforcing all of the rights of the P/S Plan, including pursuing the partners of Motors under the terms of the Guaranty.

In the opinion of PBNB, the terms and conditions of the Loans and Guaranty are based on arm's length considerations. After reviewing the proposed transactions, PBNB represents that it would make the Loans under the same terms to Motors. In conclusion, PBNB has determined that the proposed transactions are in the best interest of the P/S Plan and its participants and beneficiaries for the following reasons: (a) The Loans by the P/S Plan to Motors are well collateralized; (b) the risk of loss to the P/S Plan is almost non-existent; (c) the ninety (90) day maturity of the Loans will enable the P/S Plan to shift its investments from the Loans in a short period of time, if necessary to provide liquidity to the P/S Plan; (d) the

yield to the P/S Plan is from 155 to 215 basis points greater than that of a ninety (90) day bank certificate of deposit; (e) the rate of return, which will at all times be two percentage points above the federal discount rate, prevents the P/S Plan from becoming locked into a below market interest rate and insures a favorable rate on a continuing basis; and (f) administration of the proposed transactions should generate less expense than that of other investments.

7. The applicant maintains that the wide diversity of customers executing the Contracts significantly spreads the risk to the P/S Plan. Further, the Employer will bear all costs of filing the application for exemption, providing notice to interested persons, and paying for the services rendered by PBNB, as independent fiduciary, to the P/S Plan. In addition, it is represented that throughout the five (5) year duration of this proposed exemption, the P/S Plan will not pay any fees, expenses, or commissions in connection with the proposed transactions.

8. In summary, the applicant represents that the Loans will satisfy the criteria of section 408(a) of the Act as follows: (a) PBNB, the independent fiduciary of the P/S Plan, has agreed to review, approve, and monitor the terms of the Loans and the Guaranty; (b) PBNB had represented that the Loans will be in the best interest of the participants and beneficiaries of the P/S Plan; (c) the Loans will be short term loans limited to no more than 25% of the assets of the P/S Plan; (d) the Loans will be collateralized by a perfected security interest in the Contracts; (f) the face amount of the Contracts will at all times exceed 200% of the total amount of the Loans; (g) the Loans are guaranteed by the partners of Motors; (h) the terms of the Contracts provide Motors with recourse to the Employer in the event of a default on any of the Contracts; and (i) the P/S Plan will receive a return on the Loans of at least two percentage points above the federal discount rate which is represented to be the prevailing fair market rate of return on comparable investments.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena C. Le Blanc of the Department, telephone (202) 523–8883. (This is not a toll free number.)

Sterling S. Baker, M.D., Inc., Profit Sharing Plan (the Plan) Located in Oklahoma City, Oklahoma

[Application No. D-8909]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32826, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale (the Sale) of certain unimproved real property (the Property) by the Plan to Sterling S. Baker, M.D. (Dr. Baker), a party in interest with respect to the Plan, provided that the consideration paid for the Property is no less than the greater of (1) $115,483.77, or (2) the fair market value of the Property on the date of the Sale as determined by a qualified, independent appraiser.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with individual accounts for each of its participants. As of June 31, 1991, the Plan had eight participants and total assets of $434,015.22. The trustee for the Plan is the Trust Company of Oklahoma, located in Oklahoma City, Oklahoma (the Trustee), which replaced Dr. Baker as trustee on December 22, 1989. Although the Trustee is vested with the discretionary responsibilities for administration of the Plan and the investment of its assets, the Plan provides for unrestricted self-directed investments by each Plan participant with respect to his or her individual account. As of June 31, 1991, the individual account for Dr. Baker, contained total assets of $369,887.71 of which approximately 30 percent was represented by the value of the Property. The remaining 70 percent was invested in publicly traded securities which were valued at $259,887,61.

2. The sponsor of the Plan is Cimarron Eye Center, Inc. (the Employer), formerly known as Sterling S. Baker, Inc., which is a professional corporation organized under the Oklahoma Professional Corporation Act for the performance of services by a medical physician. Dr. Baker is the only shareholder, chief executive officer, and director of the Employer. He is also the only professional employee of the Employer, being licensed as an ophthalmologist. There are two offices in the Oklahoma City area that are maintained by the Employer. These offices are located approximately seven miles and approximately one block, respectively, from the location of the Property.

3. The Property is 28,800 square feet of unimproved real property that is located in the 7600 block on the north side of Northwest 23d Street in Bethany, Oklahoma. The location of the Property is approximately ten miles from the downtown business district of Oklahoma City and two and one-quarter miles from the downtown business district of Bethany. It is across the street from a medical clinic and the Bethany General Hospital and also within the proximity of a dental clinic and a shopping center.

The Property, which is free of encumbrances, was purchased on September 11, 1985, for the sum of $109,083 pursuant to the direction of Dr. Baker as an investment for his individual account. It was acquired from Carpenter & Associates, Ltd., an unrelated person with respect to the Plan, Dr. Baker, and the Employer. Since its acquisition, the Property not only has depreciated in fair market value but it has incurred expenses for the Plan totalling $5,483.77.

On June 4, 1990, the Property was appraised by an independent appraiser, Jim Adams, MAI-SRPA, Jim Adams Company, Oklahoma City, Oklahoma with three subsequent updatings on July 26, 1991, January 6, 1992, and January 28, 1992. Initially, in June 1990, Mr. Adams determined the fair market value of the Property to be $100,000. On July 26, 1991, he lowered his determination of the fair market value of the Property to $91,500 and continued the same valuation on the two subsequent updatings in January 1992. Not only does the Property fail to generate income or appreciate in value for the Plan, but it continues to incur expenses for taxes which are paid for by the Plan.

4. The applicants propose that the Property be sold by the Plan to Dr. Baker for not less than either $115,483.77 or the fair market value of the Property on the date of the Sale as determined by a qualified, independent appraiser. This action is to be taken at the direction of Dr. Baker and with the approval of the Trustee, which has reviewed all the facts and circumstances of the proposed Sale and concluded that it is in the best interests of the Plan and the individual account of Dr. Baker. The applicant represents that the Property has been continuously on the market for sale since its acquisition by the Plan. No offers to purchase have been received other than an offer made on April 7, 1988, to purchase the Property for $100,000 by Brown Coyle Company, which was then withdrawn before the Plan could submit an acceptance. During the last six months of 1990, the Property was listed for sale with Harris Realty Company of Oklahoma City, Oklahoma. Dr. Baker, the Trustee, and the independent appraiser represent that the

real estate market in the Oklahoma City area continues in the doldrums. It is represented by Dr. Baker and the Trustee that the proposed transaction would be in the best interests of the Plan and Dr. Baker, as a participant, because the Sale would permit the Plan to convert an unproductive and depreciating asset into cash for reinvestment into income producing assets and avoid continuing to incur expenses from holding and maintaining the Property.

5. In summary, the applicants represent that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because (a) the proposed Sale will be a one-time transaction for cash; (b) the Plan will receive not less than the sum of $115,483.77 or the fair market value of the Property on the date of the Sale as determined by a qualified, independent appraiser; (c) the Plan will not pay any real estate commissions nor any other fees or expenses in connection with the proposed Sale; (d) the Plan will recover all expenditures incurred in acquiring and maintaining the Property; and (e) Dr. Baker, who is the only participant in the Plan who is affected by the proposed transaction, desires that the transaction be consummated.

Notice to Interested Persons: Since Dr. Baker is the only participant affected by the transaction, there is no need to distribute notice to interested persons. Comments and requests for a hearing are due 30 days after publication of this notice in the **Federal Register**.

For Further Information Contact: Mr. C. E. Beaver of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, it granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 21st day of April 1992.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 92-9614 Filed 4-23-92; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 92-29; Exemption Application No. D-8860, et al.]

Grant of Individual Exemptions; Rena-Ware Distributors, Inc. Retirement Plan and Trust, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Rena-Ware Distributors, Inc. Retirement Plan and Trust (the Plan) Located in Redmond, Washington

[Prohibited Transaction Exemption 92-29; Exemption Application No. D-8860]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to interest-free extensions of credit (the Advances) to the Plan by Rena-Ware Distributors, Inc. (the Employer), a party in interest with respect to the Plan; provided that (a) no interest and/or expenses are paid by the Plan; (b) the proceeds of the Advances are used only in lieu of payments to the Plan by Mutual Benefit Life Insurance Company (Mutual Benefit) as obligor with respect to group annuity contact

number GA–4211 (the GAC); (c) repayment of the Advances will be restricted to the cash proceeds obtained by the Plan from or on behalf of Mutual Benefit with respect to the GAC; and (d) repayment of the Advances will be waived with respect to the amount by which the Advances exceed the amount the Plan receives from the final disposition of the GAC.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on February 25, 1992 at 57 FR 6533.

EFFECTIVE DATE: This exemption is effective as of August 26, 1991.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

United States Trust Company of New York (U.S. Trust) Located in New York, NY

[Prohibited Transaction No. 92–30; Exemption Application No. D–8687]

Exemption

The restrictions of section 406 (b)(1) and 406 (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code, shall not apply to the payment of an incentive fee (the Incentive Fee) to Crown Trust Advisers, Inc. (Crown), by employee benefit plans (the Participating Plans) investing in the "Crown Trust" (the Pooled Trust), in connection with services rendered by Crown with respect to investments in the Pooled Trust provided:

(1) The decision to invest plan assets in the Pooled Trust shall be made by a plan fiduciary who is independent of U.S. Trust and Crown.

(2) Each plan investing in the Pooled Trust shall have total assets that are in excess of $50 million and no plan shall invest more than 10 percent of its assets in the Pooled Trust.

(3) No plan shall invest an amount which exceeds 25 percent of the total of plan assets in the Pooled Trust immediately after such investment.

(4) Prior to making an investment in the Pooled Trust, each plan fiduciary shall receive offering materials which disclose all material facts concerning the purpose, structure and operation of the Pooled Trust.

(5) The terms of all transactions that are entered into on behalf of the Pooled Trust by U.S. Trust or Crown shall be at least as favorable to the Participating Plans as those obtainable in arm's length transactions between unrelated parties.

(6) The fees paid by the Pooled Trust to U.S. Trust and Crown shall constitute no more than reasonable compensation.

(7) Crown's incentive fee will be based upon the aggregate of all realized and unrealized capital gains and losses and all income less any expenses, other than the incentive fee, during the period for which Crown provides investment services to the Pooled Trust. Investments will be made in securities for which market quotations are either readily available, or persons independent of Crown and U.S. Trust will make an independent valuation of securities for which market quotations are not readily available.

(8) Each Participating Plan shall receive the following from U.S. Trust:

(a) Audited financial statements, prepared by independent qualified public accountants, of the Pooled Trust, on an annual basis; and

(b) Quarterly reports relating to the overall financial position and operating results of the Pooled Trust which include a breakdown all fees paid by the Pooled Trust and the value of a Participating Plan's interest in the Pooled Trust.

(10) U.S. Trust shall maintain, for a period of six years, the records necessary to enable the persons described in paragraph (11) of this section to determine whether the conditions of this exemption have been met, except that (a) a prohibited transaction will not be considered to have occurred, if due to circumstances beyond the control of U.S. Trust and Crown (and/or their affiliates), the records are lost or destroyed prior to the end of the six year period, and (b) no party in interest other than U.S. Trust or Crown shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (9) below.

(11)(a) Except as provided in section (b) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (9) of this section shall be unconditionally available at their customary location during normal business hours by:

(1) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(2) Any fiduciary of a Participating Plan who has the authority to acquire or dispose of the interests of the plan or any duly authorized representative of such fiduciary;

(3) Any contributing employer to any participating Plan that has an interest in the Pooled Trust or any duly authorized employee or representative of such employer; and

(4) Any participant or beneficiary of any Participating Plan that has an interest in the Pooled Trust or any duly authorized representative of such participant or beneficiary.

(b) None of the persons described above in subparagraphs (2)–(4) of this paragraph (10) shall be authorized to examine the trade secrets of U.S. Trust or Crown or commercial or financial information which is privileged or confidential.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material facts which are the subject of this exemption.

Written comments: The applicant submitted the following six comments with respect to the notice of proposed exemption (the Notice):

First, the applicant requested that all references in the Notice to "Crown Trust Advisers Inc." be changed to "Crown Pension Advisers Inc."

Second, the applicant requested that the language of paragraph thirteen of the Summary of Facts and Representations of the Notice be deleted in its entirety. That paragraph stated that "Assets of the Pooled Trust will not be distributed to Participating Plans until the termination of the Pooled Trust at the end of its seven year term, unless (a) the Pooled Trust is terminated earlier pursuant to a vote of the Controlling Plans, or (b) a Participating Plan withdraws from the Pooled Trust in order to comply with the Act, as described above, or (c) a Participating Plan withdraws from the Pooled Trust in connection with the resignation or removal, of U.S. Trust as trustee or, of Crown." In lieu thereof, the applicant requests that paragraph thirteen of the Summary of Facts and Representations of the Notice should state that "With respect to cash distributions, commencing at the end of the its fifth full calendar year and at the end of each year thereafter, the Pooled Trust will be required to make distributions of assets in excess of 200% of contributions. With respect to in kind distributions, assets of the Pooled Trust will not be distributed in kind to Participating Plans until the termination of the Pooled Trust at the end of its seven year term, unless (a) the Pooled Trust is terminated earlier pursuant to a vote of the Controlling Plans, or (b) a Participating Plan

withdraws from the Pooled Trust in order to comply with the Act, as described above, or (c) a Participating Plan withdraws from the Pooled Trust in connection with the resignation or removal, of U.S. Trust as trustee or, of Crown."

Third, the applicant requested amendment of paragraph twelve and of footnote four of the Summary of Facts and Representations of the Notice by appending the following sentence thereto: "The termination of the Pooled Trust will occur on the last day of the calendar quarter in which the relevant notice period expires."

Fourth, the applicant, due to changed circumstances, has requested that paragraph two of the Summary of Facts and Representations in the Notice should be changed to state that approximately 10–20 plans will participate in the Pooled Trust in lieu of the participation of 5–10 plans. Similarly, paragraph ten of the Summary of Facts and Representations in the Notice should be changed to state that the minimum capitalization of the Pooled Trust will be $50 million in lieu of the $100 million minimum capitalization stated in the Notice.

Fifth, the applicant requested that the final sentence of paragraph fifteen of the Summary of Facts and Representations in the Notice be deleted in its entirety. The sentence stated that "In the event Crown terminates the Investment management Agreement after the initial two years of the Pooled Trust, the incentive fee will not be payable until the end of the original seven year term of the Pooled Trust.". In lieu thereof, the final sentence of paragraph fifteen of the Summary of Facts and Representations in the Notice should state that "In the event Crown terminates the Management Agreement after the initial two years of the Pooled Trust, the Incentive Fee will not be payable until the termination of the Pooled Trust." The applicant represents that the requested change is appropriate because Crown does not have control over the termination of the Pooled Trust.

Finally, the applicant requested that the second sentence of paragraph fourteen of the Summary of Facts and Representations in the Notice should be changed from "The applicant represents that the payment of all other fees by the Participating Plans with the exception of the Incentive Fee will conform with the terms and conditions of section 408(b)(2) of the Act." to "The applicant represents that fees payable by the Plans with respect to the Pooled Trust including the Incentive Fee for which relief is sought in the application for his exemption, constitute reasonable compensation within the meaning of section 408(b)(2) of the Act.".

The Department concurs with all the aforementioned modifications. Accordingly, after consideration of the entire record, the Department has determined to grant the exemption as modified herein.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 21st day of April 1992.

Ivan Strasfeld,

Director of Exemption Determinations Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 92–9607 Filed 4–23–92; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92–24]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Solar System Exploration Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Solar System Exploration Subcommittee.

DATES: May 7, 1992, 9 a.m. to 5:30 p.m.; and May 8, 1992, 8:30 a.m. to noon.

ADDRESSES: National Aeronautics and Space Administration, room 226, 600 Independence Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Wesley Huntress, Code SL, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–1588).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long-range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Solar System Exploration Subcommittee (SSES) provides advice to the Solar System Exploration Division concerning long-range planning in solar system exploration. The SSES will meet to discuss the presentation of SSAAC on Magellan, Mars Environmental Survey (MESUR) and Mars Network (MARSNET), the Cassini Mission, the Comet Mission, and other mission-related business. The Subcommittee is chaired by Dr. Jonathan Lunine and is composed of 24 members. The meeting will be closed to the public from 8:30 a.m. to 9 a.m. on May 8, 1992, for a discussion of the qualifications of additional candidates for membership. Such a discussion would invade the privacy of the candidates and other individuals involved. Since this discussion will be concerned with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public for this period of time. The remainder of the meeting will be open to the public up to the seating capacity of the room

(approximately 50 persons including Subcommittee members).

TYPE OF MEETING: Open—except for a closed session noted in the agenda below.

Agenda

Thursday, May 7
9 a.m.—Opening Remarks.
9:15 a.m.—Discussion of Program Status.
10:45 a.m.—Discussion of Upcoming Presentation to SSAAC on Magellan.
1 p.m.—MESUR Pathfinder.
1:45 p.m.—Discussion of MESUR and MARSNET Status.
2:15 p.m.—Discussion of Cassini Mission.
3:45 p.m.—Planning for Comet Mission and Small Bodies Science Working Group.
4:30 p.m.—Planning for Pluto Mission.
5 p.m.—Discussion of other Mission Related Business.
5:30 p.m.—Adjourn.
Friday, May 8
8:30 a.m.—Closed Session.
9 a.m.—Status of SSAAC Research and Analysis Studies.
9:45 a.m.—Update on Mission Operations Cost Reduction Plan.
10:45 a.m.—Jet Propulsion Laboratory Small Mission Tiger Team Study.
11:30 a.m.—Discussion of other Subcommittee Business.
Noon—Adjourn.

Dated: April 20, 1992.

Philip D. Waller,

Deputy Director, Management Operations Division.

[FR Doc. 92-9570 Filed 4-23-92; 8:45am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities, Arts and Artifacts Indemnity Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee (Act Pub. L. 92-463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in room 730, from 9:30 a.m. to 5 p.m. on Wednesday, May 27, 1992.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after July 1, 1992.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated September 9, 1991, I have determined that the meeting would fall within exemptions (4) and (9) of 5 U.S.C. 552b and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, David Fisher, 1100 Pennsylvania Avenue NW., Washington, DC 20506, or call 202/786-0322.

David Fisher,

Advisory Committee, Management Officer.

[FR Doc. 92-9585 Filed 4-23-92; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Innovation and Change in Chemistry Instruction; Workshop

The National Science Foundation (NSF) will hold a two-day workshop on Innovation and Change in Chemistry Instruction on May 7, 1992, 8 a.m. to 5 p.m. and May 8, 1992, 8:30 a.m. to 3 p.m. at the Dupont Plaza Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036.

Discussions will include issues within the chemistry academic community such as:

(1) How will the chemistry community organize itself to foster widespread change?;

(2) How will the leadership that has already come forward draw a larger group of the discipline's practitioners, including those whose primary contribution has been the creation of new chemical knowledge, into the labor of effective change in chemistry instruction including that in laboratories?; and

(3) How can institutions be induced to take greater responsibility for leadership in the improvement of chemistry instruction?

Although the workshop will not operate as an advisory committee, the public is invited to attend. Participants will include individuals throughout the chemistry community, nonchemist experts on selected subjects, leaders of instructional innovation, laboratory textbook authors and developers, and representatives from various industries, publishing companies, journals, and societies. A report of the workshop will be published.

For additional information, contact Drs. Gene Wubbels and Curtis Sears, Jr., Program Directors, 1800 G Street NW., Washington, DC 20550, (202) 357-7051 or 7292.

Dated: April 15, 1992.

William E. Haver,

Acting Division Director, Undergraduate Science, Engineering, and Mathematics Education.

[FR Doc. 92-9540 Filed 4-23-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrence Report; Section 208 Report Submitted to the Congress

Notice is hereby given that pursuant to the requirements of section 208 of the Energy Reorganization Act of 1974, as amended, the Nuclear Regulatory Commission (NRC) has published and issued another periodic report to Congress on abnormal occurrences (NUREG-0090, Vol. 14, No. 4).

Under the Energy Reorganization Act of 1974, which created the NRC, an abnormal occurrence is defined as "an unscheduled incident or event that the Commission (NRC) determines is significant from the standpoint of public health or safety." The NRC has made a determination, based on criteria published in the **Federal Register** (42 FR 10950) on February 24, 1977, that events involving an actual loss or significant reduction in the degree of protection against radioactive properties of source, special nuclear, and by-product material are abnormal occurrences.

The report to Congress is for the fourth calendar quarter of 1991. The report identifies the occurrences or events that the Commission determined to be significant and reportable; the remedial actions that were undertaken are also described.

Five abnormal occurrences at NRC-licensed facilities are discussed in the report. None of these occurrences involved a nuclear power plant. Four involved medical therapy misadministrations and one involved a medical diagnostic misadministration. The NRC's Agreement States reported three abnormal occurrences. Two involved exposures of non-radiation workers and one involved a medical therapy misadministration. The report also contains information that updates some previously reported abnormal occurrences.

A copy of the report is available for inspection or copying for a fee at the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC 20555, or at any of the nuclear power plant Local Public Document Rooms throughout the country.

Copies of NUREG–0090, Vol. 14, No. 4 (or any of the previous reports in this series), may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082. A year's subscription to the NUREG–0090 series publication, which consists of four issues, is also available.

Copies of the report may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Rockville, MD this 20th day of April 1992.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 92–9596 Filed 4–23–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–312]

Sacramento Municipal Utility District; Revocation of Exemption

On July 24, 1990, the Sacramento Municipal Utility District ("SMUD or the licensee) asked for an exemption from 10 CFR 50.75(e)(1)(ii) regarding the requirement to have all decommissioning funds collected when operations are terminated. The Rancho Seco Nuclear Generating Station (Rancho Seco) was permanently shut down on June 7, 1989, and completely defueled on December 8, 1989. On Tuesday, November 12, 1991, the NRC published an Environmental Assessment and Finding of No Significant Impact regarding the requested exemption (56 FR 57536). On Tuesday, November 19, 1991, the NRC published approval of the requested exemption (56 FR 58407).

It has since come to the NRC's attention that the agency had stated that it would seek public participation on license amendments and other regulatory relief regarding Rancho Seco's decommissioning. For this reason, by letter of April 16, 1992, the NRC revoked the exemption pending its consideration again, after providing an opportunity for public participation. A future **Federal Register** notice will solicit public participation regarding the requested exemption and the no significant impact finding.

For further details with respect to the action see (1) the request for exemption dated July 24, 1990, (2) the exemption dated November 13, 1991, and (3) the revocation of the exemption dated April 16, 1992. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Acting Associate Director for Advanced Reactors.

Dated at Rockville, Maryland this 17th day of April 1992.

For the Nuclear Regulatory Commission.

John W. Craig,

Acting Associate Director, Division of Advanced Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 92–9597 Filed 4–23–92; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–482]

Wolf Creek Nuclear Operating Corp., Wolf Creek Generating Station; Withdrawal of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Wolf Creek Nuclear Operating Corporation (the licensee) to withdraw its March 20, 1992, application for proposed amendment to Facility Operating License NPF-42 for the Wolf Creek Generating Station, located in Coffey County, Kansas.

The Commission had previously requested public comment by publication of legal notices in the Emporia Gazette, Emporia, Kansas on March 24, 1992; Kansas City Star, Kansas City, Missouri on March 25, 1992; The Wichita Eagle, Wichita, Kansas on March 25, 1992; Coffey County Today and This Week, Burlington, Kansas on March 25, 1992; and Topeka Capital-Journal, Topeka, Kansas on March 26, 1992. However, by letter dated April 10, 1992, the licensee was informed of the proposed withdrawal of the amendment request and has not requested that the Commission change its plan to proceed with the withdrawal.

For further details with respect to this action, see the application for amendment dated March 20, 1992, and the letter dated April 10, 1992 which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and the Local Public Document Room at Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland this 17th day of April 1992.

For the Nuclear Regulatory Commission.

William D. Reckley,

Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92–9598 Filed 4–23–92; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF THE TREASURY

United States Customs Service

Current IRS Interest Rate Used in Calculating Interest on Overdue Accounts and Refunds

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of calculation and interest.

SUMMARY: This notice advises the public of the interest rates for overpayments and underpayments of Customs duties. The rates are 7 percent for overpayments and 8 percent for underpayments for the quarter beginning April 1, 1992. This notice is being published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: April 1, 1992.

FOR FURTHER INFORMATION CONTACT: Robert B. Hamilton, Jr., Revenue Branch, National Finance Center, (317) 298–1245.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621. Interest rates are determined based on the short-term Federal rate. The interest rate that Treasury pays on overpayments will be the short-term Federal rate plus two percentage points. The interest rate paid to the Treasury for underpayments will be the short-term Federal rate plus three percentage points. The rates will be rounded to the nearest full percentage.

The interest rates are determined by the Internal Revenue Service on behalf of the Secretary of the Treasury based

on the average market yield on outstanding marketable obligations of the U.S. with remaining periods to maturity of 3 years or less and are to fluctuate quarterly. The rates are determined during the first month of a calendar quarter and become effective for the following quarter.

The rates of interest for the period of April 1, 1992–June 30, 1992, are 7 percent for overpayments and 8 percent for underpayments. These rates will remain in effect through June 30, 1992, and are subject to change on July 1, 1992.

Dated: April 20, 1992.

Samuel H. Banks,

Acting Commissioner of Customs.

[FR Doc. 92–9611 Filed 4–23–92; 8:45 am]

BILLING CODE 4820–02–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 80
Friday, April 24, 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).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AMD TIME: 2:00 p.m. (Eastern Time) Tuesday, May 5, 1992.

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 "L" Street, N.W., Washington, D.C. 20507.

STATUS: Part of the Meeting will be Open to the Public and Part will be Closed to the Public.

MATTERS TO BE CONSIDERED: .

OPEN SESSION: .

1. Announcement of Notation Vote(s).
2. A Report on Commission Operations.
3. Pilot Project on Alternative Dispute Resolution.
4. Change in EEO–4 Filing Requirements.

CLOSED SESSION:

1. Litigation authorization: General Counsel Recommendations.
2. Agency Adjudication and Determination on the Record of Federal Agency Discrimination Complaint Appeals.

Note: Any matter discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–7100.

Dated: April 22, 1992.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 92–9730 Filed 4–22–92; 1:41 pm]

BILLING CODE 6750–06–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, April 29, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street Entrance Between 20th and 21st Streets, N.W., 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.
2. 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: April 21, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–9683 Filed 4–22–92; 11:01 am]

BILLING CODE 6210–01–M

DEPARTMENT OF JUSTICE

UNITED STATES PAROLE COMMISSION

Public Announcement

Pursuant To The Government In the Sunshine Act (Public Law 94–409) [5 U.S.C. Section 552b]

An additional item to be added to the agenda of the open meeting to be held at 5550 Friendship Boulevard, Chevy Chase, Maryland, 20815; Correction.

AGENCY: United States Parole Commission.

ACTION: Notice of correction of previous published agenda.

SUMMARY: This notice corrects the agenda previously published in the Federal Register April 16, 1992 [57 FR 13411] by adding an additional item to be discussed at the open meeting of the Commission to be held in Chevy Chase, Maryland. The following item has been added to the agenda: Communication difficulties caused by the transporting of inmates.

Dated: April 21, 1992.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 92–9772 Filed 4–22–92; 3:57 am]

BILLING CODE 4410–01–M

POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, May 4, 1992, and at 8:30 a.m. on Tuesday, May 5, 1992, in Washington, D.C. The May 4 meeting, at which the Board will consider the Postal Rate Commission's Opinion and Recommended Decision in Docket No. MC91–1, Pre-Barcoded Flats Discounts, is closed to the public. (See 57 FR 12861, April 13, 1992)

The May 5 meeting is open to the public and will be held in the Benjamin Franklin Room on the 11th floor of U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

Agenda

Monday Session

May 4—1:00 p.m. (Closed)

1. Consideration of the Postal Rate Commission's Opinion and Recommended Decision in Docket No. MC91–1, Pre-Barcoded Flats Discounts.

Tuesday Session

May 5—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, April 6–7, 1992.
2. Remarks of the Deputy Postmaster General.
3. Quarterly Report on Financial Performance. (Comer S. Coppie, Senior Assistant Postmaster General, Finance Group.)
4. Quarterly Report on Service Performance. (Ann McK. Robinson, Consumer Advocate.)
5. Tentative Agenda for June 1–2, 1992, meeting in Washington, D.C.

David F. Harris,

Secretary.

[FR Doc. 92–9747 Filed 4–22–92; 3:22 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of April 27, 1992.

A closed meeting will be held on Tuesday, April 28, 1992, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more

of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Beese, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, April 28, 1992, at 2:30 p.m., will be:

Institution of administrative proceedings an enforcement nature.

Institution of injunctive actions.

Settlement of injunctive actions.

Settlement of administrative proceedings of an enforcement nature.

Institution and settlement of administrative proceedings of an enforcement nature.

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: Paul Atkins at (202) 272–2000.

Dated: April 21, 1992.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–9707 Filed 4–22–92; 12:16 pm]

BILLING CODE 8010–01–M

federal register

Friday
April 24, 1992

Part II

Department of Energy

10 CFR 1021

National Environmental Policy Act; Implementing Procedures and Guidelines Revocation; Final Rule and Notice

DEPARTMENT OF ENERGY

10 CFR Part 1021

National Environmental Policy Act Implementing Procedures

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is revising the existing rule at 10 CFR part 1021, titled "Compliance with the National Environmental Policy Act," to incorporate revised provisions of DOE's Guidelines for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA). DOE is also revoking its existing NEPA guidelines. This rule incorporates changes required by certain policy initiatives instituted by the Secretary of Energy to facilitate participation of the public and affected states in the NEPA process for proposed DOE actions. The rule also includes a revised and expanded list of typical classes of actions, including categorical exclusions. Categorical exclusions are classes of actions that normally do not require the preparation of either an environmental impact statement or an environmental assessment.

EFFECTIVE DATE: This rule will become effective May 26, 1992.

FOR FURTHER INFORMATION CONTACT: Carol Borgstrom, Director, Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION:

I. Background

On November 2, 1990 (55 FR 46444), DOE published a proposed rule that would revise 10 CFR part 1021, revoke the DOE NEPA Guidelines (52 FR 47662, December 15, 1987, as amended), and adopt the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR parts 1500–1508). Publication of the Notice of Proposed Rulemaking began a 45-day public comment period, ending December 17, 1990. As part of the notice and comment process, DOE held a public hearing on the proposed rule on December 5, 1990. Comments were received from 19 sources, including private individuals, state and Federal agencies, public interest groups, and other organizations. Copies of all written comments and the transcript of the public hearing have been provided to CEQ and are available for public inspection at the DOE Freedom of Information Reading Room, room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6020.

Today's notice adopts the revisions proposed at that time, with certain changes discussed below, and codifies them at 10 CFR Part 1021. A separate notice published today revokes the existing Guidelines on the date that these regulations become effective.

Copies of the final rule are available upon request to the information contact listed above.

In accordance with 40 CFR 1507.3, DOE has consulted with CEQ regarding this rule. CEQ has found that this regulation conforms with NEPA and the CEQ regulations and has no objection to its promulgation.

II. Statement of Purpose

The purpose of the rule is to revise the provisions of DOE's NEPA Guidelines, based on DOE's experience in the implementation of NEPA and on the directives of Secretary of Energy Notice 15–90 (SEN–15–90), to provide more specificity and detail than the Guidelines and to enhance public review opportunities. (For further information on SEN–15–90, issued February 5, 1990, see the Notice of Proposed Rulemaking (55 FR 46445, November 2, 1990); copies are available from the information contact listed above.) The rule is to be codified at 10 CFR part 1021. By issuing its NEPA Guidelines as regulations published in the Code of Federal Regulations, DOE will ensure that its NEPA procedures are more accessible to the public.

III. Comments Received and DOE's Responses

DOE has considered and evaluated the comments received during the public comment period. Many revisions suggested in these comments have been incorporated into the final rule. The following discussion describes the comments received, provides DOE's position on the comments, and describes any resulting changes to the rule. Section references, unless otherwise indicated, are to those in the proposed rule rather than the final rule; changed section designations are noted below, in response to corresponding comments.

Many of the commenters expressed overall support for DOE's efforts to improve its NEPA procedures, especially in the areas of increased public participation and requirements for programmatic and site-wide NEPA documentation and mitigation action plans. Because these comments are general in nature and do not require consideration of any changes to the proposed rule, they will not be discussed individually.

In addition to revisions made in response to comments and other revisions already discussed, DOE has made a number of editorial, stylistic, and format revisions. DOE also has made certain technical changes for clarity and consistency, which are described below under corresponding subject headings.

A. Procedural Comments

Several commenters addressed the procedural aspects of this rulemaking. One commenter requested that DOE hold public hearings on the proposed rule in the vicinity of its nuclear weapons facilities. DOE provided an opportunity for both oral and written comment on this rule. Written comments were given the same consideration as oral comments. For this reason, DOE determined that additional public hearings in the vicinity of its nuclear weapons facilities were not necessary.

One commenter disagreed with DOE's position—stated in the November 2, 1990, Preamble, regarding NEPA review requirements for the proposed rule—that the promulgation of this rule does not require an environmental assessment (EA) or environmental impact statement (EIS). The commenter asserted that, in light of the absence of documentary support for the many decisions made in the rule, especially the identification of classes of categorically excluded actions, not only is NEPA review required, but an EA or EIS would help to provide a basis for these decisions.

Issuance of this rule complies fully with NEPA's review requirements. DOE's NEPA Guidelines (52 FR 47662, December 15, 1987) list a categorical exclusion for "promulgation of rules and regulations which are clarifying in nature, or which do not substantially change the effect of the regulations being amended." The regulations adopted today will revise 10 CFR part 1021, which simply adopts the CEQ regulations. The amendment clarifies the previous rule by adding specificity, and contains only procedural requirements. Therefore, this action is categorically excluded from further NEPA review. (Also see section V, below.)

A number of commenters addressed the effective date of the final rule. One supported DOE's intention to have the rule become effective immediately upon publication. Another asserted that the rule should not become effective immediately upon publication because "good cause" does not exist within the meaning of the Administrative Procedure Act, 5 U.S.C. 535(d), to waive the standard 30-day period between publication and effective dates. Two

commenters asserted that because their comments suggested such substantial revisions to the proposed rule, the rule should be reissued as a proposed rule.

As indicated earlier in this Notice of Final Rulemaking, the effective date of the rule will be 30 days from the date of publication. DOE does not agree that the rule should be reproposed for further public comment. The revisions are a logical outgrowth of the Notice of Proposed Rulemaking published on November 2, 1990, reflecting responses to public comments and limited technical changes in the proposed rule.

B. General Comments on Subparts A Through C

Two commenters were concerned about the length of time needed to complete NEPA documentation. One commenter suggested that DOE establish time periods for internal DOE review and decisions. The other commenter suggested establishing limits on the total time allowed for the completion of each NEPA document process, as many states have done in connection with state processes under NEPA-equivalent laws. Although DOE is aware of the advantages of being able to predict the time the NEPA process will take for proposed actions, the variety of the type and complexity of DOE actions precludes establishing a single time period that would be practical for all actions. Therefore, DOE does not believe that establishing time limits for NEPA review is feasible.

One commenter was concerned in particular about the duplication of effort that might arise from the need to meet both Federal and state NEPA requirements and asserted that guidance on this issue should be provided in DOE's NEPA procedures. One of the goals of these regulations is to implement the CEQ regulation encouraging Federal agencies to cooperate with state agencies to the fullest extent possible to reduce duplication between NEPA and state requirements (see 40 CFR 1506.2). In the past, DOE has been successful in attaining that goal, and, in nearly all cases, a single document has sufficed for both NEPA and state requirements. Under this rule, DOE will continue to work to minimize duplication and to maximize coordination and cooperation. Should the unusual situation arise where there is a conflict between NEPA and state requirements, however, DOE is bound by the requirements of NEPA. Accordingly, DOE believes that no revisions to the proposed rule are necessary as a result of this comment.

There were three comments regarding DOE internal procedures related to the proposed rule. One commenter requested a discussion of the future role of the Action Description Memorandum (ADM). An ADM is an internal DOE document used to assist DOE in determining the appropriate level of NEPA review—EA or EIS—for a proposed action that is not listed in the classes of actions in the appendices to Subpart D of the rule or for which the appropriate initial level of review is unclear. The role of the ADM will not change with the promulgation of this rule.

One commenter requested clarification of how the final rule would be applied to NEPA documents that had been initiated before its effective date. DOE intends to apply the rule to ongoing activities and to environmental documents begun before the effective date of the rule to the fullest extent practicable. The rule will not apply to an EIS if the draft EIS was filed before the rule's effective date, and completed environmental documents will not be required to be redone as a result of this rule.

Two commenters stated that the proposed rule contains an overabundance of imprecise, subjective, and discretionary language, sometimes in provisions where discretionary language is inconsistent with NEPA and the CEQ regulations. The commenters urged DOE to eliminate such language from the proposed rule. DOE generally agrees with these comments and has removed the phrase "in DOE's judgment" from the following sections of the proposed rule: 1021.200(b), 212(b), 213(b), 301(d), 311(a), 332(a) and (c), 340(b), and 341(a) and (b). Similarly, the phrase "at its [or DOE's] discretion" has been removed from the following sections: 1021.300(b), 301(c) and (d), 311(b) and (e), 312(d), 313(d), 314(d)(3), 322(d), and 330(a). The phrase "at its option" has been removed from 1021.312(a).

C. Comments on Subpart A—General

Section 1021.102 Applicability

One commenter suggested that the phrase "any DOE action affecting the environment" be changed to the language in NEPA: "major Federal actions significantly affecting the quality of the human environment." Because DOE is required to examine all actions that affect the environment to determine whether they are major Federal actions that may significantly affect the human environment, the commenter's suggested change was not adopted.

Another commenter suggested that DOE follow the lead of other agencies with overseas activities (e.g., the U.S. Agency for International Development and the National Oceanic and Atmospheric Administration) and analyze all the environmental impacts of proposed activities, not just impacts within U.S. territory. Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions," states in section 1–1 that the Order "represents the United States government's exclusive and complete determination of the procedural and other actions to be taken by Federal agencies to further the purpose of [NEPA], with respect to the environment outside the United States, its territories and possessions." As explained in the proposed rule, DOE has adopted procedures (46 FR 1007, January 5, 1981) implementing E.O. 12114, pursuant to section 2–1 of that Order. As long as the Order is in effect, DOE will use these procedures in addressing the extraterritorial environmental effects of DOE actions, and no change is needed in this final rule.

Section 1021.104 Definitions

Section 1021.104(b). In addition to the comments discussed below, other comments that nominally relate to definitions are addressed elsewhere, in the discussion of sections of the rule where the comment has more substantive relevance.

Definition: Action and DOE decision. One commenter stated that the failure of officials to act was reviewable and thus should be included in DOE's definition of action. The commenter suggested that DOE should simply reference the CEQ definition at 40 CFR 1508.18. The proposed rule did reference § 1508.18 of the CEQ Regulations, and DOE's paraphrasing of that section in the proposed rule was not intended to exclude any activity covered by 40 CFR 1508.18, including the failure to act. In response to the comment, however, the final rule has been modified to more closely parallel 40 CFR 1508.18. (As a result of this change and a related comment on the definition of "DOE decision," DOE has deleted the definition of "DOE decision" from the final rule.) The definition of "action" has also been changed to make clear that these regulations do not apply to "ministerial actions," such as congressionally mandated funding passthroughs, which DOE does not propose and over which it has no discretion. (Also see the discussion of appendix A1 .5, below.)

Definition: Adjacent state. One commenter stated that the requirement that a state must have a common boundary with a host state in order to be an adjacent state was too limiting.

Specifically, they asserted that states may be downwind or downstream from the location of a proposed action or have vital social or economic interests in a proposed action without sharing a common boundary. In response to the comment, the definition of "adjacent state" has been deleted, and in corresponding provisions of the rule, DOE has replaced "adjacent state" with the concept of a state or American Indian tribe that may be affected by a proposed action.

Definition: American Indian tribe. This definition has been added to accommodate changes made in §§ 1021.301(c) and (d) in response to comments and the addition of § 1021.301(e).

Definition: Contaminant and hazardous substance. One commenter objected to defining these words by reference to their definitions under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) because this would potentially exclude actions involving petroleum and natural gas products from NEPA review. DOE has addressed the commenter's concern by adding a definition for "CERCLA-excluded petroleum and natural gas products" and incorporating this phrase in appropriate parts of the final rule.

Definition: Documentation. One commenter stated that the proposed definition would supplant the environmental assessment that CEQ requires as the basis for determining the significance of the environmental effects of a proposed action. DOE agrees with the commenter's basic assertion that the purpose of "documentation" should be to have a record of a decision that categorical exclusion from environmental analysis is appropriate. This was DOE's intention, but comments on the definition of "documentation" and related parts of the proposed rule suggest that the intended purpose was not well understood. The CEQ regulations do not require documentation of the application of a categorical exclusion, and DOE is withdrawing the proposed regulatory requirement for such documentation. DOE believes that internal procedural and recordkeeping requirements for overseeing the application of categorical exclusions are more appropriate, and therefore has deleted the proposed definition and related provisions of the proposed rule.

Definition: EIS Implementation Plan. One commenter suggested that the definition be altered by adding "schedule" so as to read "that explains and supports the scope, *schedule,* and approach * * *" DOE accepts the comment, but has also added the qualifying word "target" because schedules are subject to change.

Definition: Host tribe. This definition has been added to accommodate changes made in 1021.301(c) and (d).

Definition: Interim action. One commenter thought that this definition would be more instructive if it cited the CEQ definition rather than referring to it. The commenter's suggested change, however, would include only one of the limitations from 40 CFR 1506.1. The proposed language that was the source of confusion has been rewritten.

Definition: NEPA document. One commenter would expand this definition by adding "Supplement Analysis," "Environmental Critique," and "Environmental Synopsis." DOE disagrees because these documents are not required by NEPA or the CEQ regulations. DOE has deleted "documentation of a categorical exclusion" from this definition because listing it was inappropriate at the outset, and the final rule does not require such documentation.

Definition: Pollutant. This definition has been affected indirectly by the addition of a new definition—"CERCLA-excluded petroleum and natural gas products"—in response to comments.

Definition: Project. DOE has modified this definition to more explicitly comport with CEQ's corresponding language, as a commenter suggested.

Definition: Site-wide NEPA document. The definition in the final rule acknowledges the programmatic nature of a site-wide NEPA document, in response to a commenter's request for clarification.

Section 1021.105 Oversight of Agency NEPA Activities

One commenter interpreted DOE's proposed offer to provide information on procedures and the status of NEPA reviews as an offer to provide written guidance and reports, and suggested that the rule make further provisions regarding such materials. DOE does not prepare written reports on individual NEPA reviews. The rule has been changed to clarify the original intent that DOE will make every effort to respond to public inquiries and to provide timely information regarding the status of NEPA review of specific projects.

D. Comments on Subpart B—DOE Decisionmaking

Section 1021.200 DOE Planning

Section 1021.200(a). A commenter stated that many DOE orders issued under the Department's Atomic Energy Act authority govern critical environmental, health, and safety matters with the potential for significant impacts on the human environment, and suggested that promulgation of DOE orders be included as an activity that may require NEPA review. DOE accepts the suggestion and § 1021.200(a) has been modified accordingly. Another commenter requested that the rule clearly state the criteria DOE will use in deciding when to initiate a NEPA review in order to ensure a consistent approach to the NEPA process. The commenter was concerned that DOE might begin NEPA review after committing to a course of action. Section 1021.210(b) has been modified to emphasize DOE's intention to complete NEPA review before committing to a course of action. However, DOE believes that specific criteria for individual types of actions can be more effectively administered through internal procedures.

Section 1021.200(b). One commenter suggested the addition of, or a reference to, the CEQ requirement (40 CFR 1501.2) to integrate the NEPA process with other planning as early as possible. In § 1021.200(a), DOE commits to performing an adequate and timely NEPA review in accordance with 40 CFR 1501.2. Section 1021.200(b) only amplifies the general directive for a proposed action and is not intended to eliminate that commitment.

Section 1021.211 Interim Actions

One commenter supported the intent of the section but was concerned that DOE commitment of resources to an action before completing NEPA review might bias the consideration of alternatives. This commenter also requested that criteria for determining whether future actions fall within the bounds of permissible interim actions under the CEQ regulations (40 CFR 1506.1) be proposed for public review and comment. The commenter expressed concern that DOE will interpret this section too loosely. The commenter did not offer additional criteria. DOE believes that the criteria in the CEQ regulations are adequate, and, therefore, no additional criteria are included in the final rule. The title and language of this section have been modified editorially, however, to more closely parallel the CEQ regulations.

Another commenter was concerned that ongoing and planned environmental restoration actions would be delayed until records of decision for larger "umbrella" EISs or supplemental EISs are issued. DOE believes that many such actions would satisfy the criteria of 40 CFR 1506.1 and, therefore, could

proceed while "umbrella" NEPA reviews are being prepared.

Section 1021.212 Research, Development, Demonstration, and Testing

Section 1021.212(b). One commenter requested that criteria be added for DOE to use in determining when to begin a NEPA review, but did not suggest additional criteria. DOE believes that the criteria in this section, in 40 CFR 1501.2, and elsewhere in this rule are sufficient for that purpose.

In the final rule DOE has moved the last part of proposed § 1021.212(b), which concerned completion of NEPA review before a decision to proceed with detailed design, to § 1021.210(b) in the final rule. This was done to emphasize that this aspect of timing has general applicability.

Section 1021.212(c). One commenter was concerned that this section might be read to allow improper segmentation of the NEPA review of a project. DOE's rule, at § 1021.212(b), provides for subsequent NEPA reviews to evaluate those environmental impacts that could not be meaningfully evaluated at the time the initial review was prepared. Accordingly, the rule does not sanction improper segmentation. In the event that there are legitimate phases to an action, each successive EA or EIS considers cumulative impacts as required under 40 CFR 1508.25.

Section 1021.213 Rulemaking

Section 1021.213(b). One commenter objected to the "internal, subjective" decisionmaking process for determining when to begin NEPA review, but did not offer specific suggestions for more objective criteria. DOE believes that the criteria contained in § 1021.213(b) are adequate and consistent with 40 CFR 1501.2, in that they emphasize conducting NEPA review early in the process.

Section 1021.214 Adjudicatory Proceedings

Sections 1021.214(a) and 1021.214(c). One commenter questioned the meaning of "adjudicatory proceeding" and how it is distinguished from "administrative action." The comma inadvertently placed after "administrative" has been deleted to clarify the provision and to be consistent with 40 CFR 1508.18(a). Also, the phrase "for formal adjudicatory proceedings" has been deleted from § 1021.214(c) to eliminate confusion.

Section 1021.215 Applicant Process

Section 1021.215(b)(6). In response to a comment, and to clarify DOE's original intent, language has been added indicating that DOE would take appropriate action if an applicant were about to take an action that would not satisfy the criteria in 40 CFR 1506.1(a) before DOE completes the NEPA process.

Section 1021.215(c). One commenter believed that the generic guidelines mentioned in this section should be proposed under the Administrative Procedure Act with adequate public notice and opportunity for comment. DOE has modified the section to clarify that any guidance issued to assist preparation of applications would be nonbinding on the applicants. Such guidance need not be subjected to public notice and comment.

Section 1021.216 Procurement and Financial Assistance

This section has been modified to clarify that it applies to DOE joint ventures entered into as a result of a competitive solicitation. Such joint ventures are authorized pursuant to the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (Pub. L. 101–218).

E. Comments on Subpart C—Implementing Procedures

Section 1021.300 General Requirements

Section 1021.300(b). One commenter requested that this section be clarified to reflect the mandatory nature of NEPA review for ongoing activities. DOE agrees that NEPA applies to ongoing activities in appropriate circumstances; however, this section addresses preparation of NEPA documents that are not required by law or regulations. DOE has made clarifying changes.

Section 1021.301 Agency Review and Public Participation

Section 1021.301(a). The term "interested groups" has been added to the list of entities to which DOE will make its NEPA documents available, in response to a comment. In response to another commenter's general concern about the public's information and involvement opportunities regarding DOE's activities, DOE notes that the rule enhances such opportunities and exceeds CEQ's minimum requirements.

Section 1021.301(c). (Section 1021.301(d) of the final rule). Commenters addressed several aspects of this section, including to whom the proposed opportunity for pre-approval review of EAs should be offered, the length of the review period, and the fact that states may vary in making DOE's documents available to the public.

DOE accepts several commenters' suggestions that American Indian tribes be accorded the same pre-approval review opportunities as similarly situated states. The opportunity will not be extended to the public generally or to citizen groups, however, as several commenters also suggested. The pre-approval review opportunity implements the Secretary of Energy's policy to closely coordinate DOE's NEPA actions with host and potentially affected states and American Indian tribes. The courtesy established by this policy is consistent with the special relationship between the Federal Government and the sovereign states and American Indian tribes. The rule exceeds and does not detract from CEQ's public review requirements.

In regard to the length of the review period, two commenters stated that the proposed 14- to 30-day period was inadequate, and one commenter thought the proposed period was adequate. DOE believes that the proposed period is adequate, and notes that this period is a minimum that may be extended as appropriate. DOE believes that the phrase "[a]t DOE's discretion" regarding the review period is necessary to provide flexibility in tailoring the review process to the circumstances of an individual action.

One commenter questioned the meaning of the proposed language explaining how DOE will proceed after giving the opportunity for pre-approval review. DOE has clarified that it may take any appropriate action on the EA before the end of the review period if the states and American Indian tribes have already waived the opportunity or have responded.

Finally, as previously noted regarding the definition of "adjacent state," this definition has been replaced with the concept of a state or American Indian tribe that may be "affected" by a proposed action. DOE believes that it is necessary to maintain the phrase "in DOE's judgment," however, when determining which states or American Indian tribes may be affected by a proposed action, contrary to several commenters. In many cases, this determination will depend on subjective evaluations of multiple factors. Therefore, DOE believes that the rule should state that DOE retains the discretion to exercise judgment in these matters.

Section 1021.301(d). (Section 1021.301(c) of the final rule). Two commenters recommended that, in addition to adjacent (now "affected") states, Indian tribes should also be notified of DOE's determination to prepare an EA or EIS for a DOE action. DOE agrees. One of the commenters

further suggested that interested agencies, citizen groups, and the general public should be notified. This comment was not accepted for the same reasons described in the response to comments on proposed § 1021.301(c).

Section 1021.301(e). In considering the comments opposing the early notification and review and comment provisions of §§ 1021.301 (c) and (d), DOE concluded that there are circumstances when this process would be inappropriate. Therefore, DOE added this section to the final rule so that these provisions would not apply where providing such advance information to a state or American Indian tribe could create a conflict of interest. The rule specifically cites power marketing actions, such as rate-setting, in which a state or Indian tribe is a customer.

Section 1021.311 Notice of Intent and Scoping

Section 1021.311(a). One commenter suggested that a Notice of Intent (NOI) should include at least a brief discussion of potential alternatives. DOE agrees, and a reference to 40 CFR 1508.22, which includes potential alternatives within the NOI contents, has been added to the section.

One commenter objected to the lack of criteria on which DOE will base its decisions on publishing an NOI or an Advance NOI, and also suggested that the rule should allow for maximum public notice of any opportunity for public comment. DOE notes that the wording of the first portion of this subsection is almost a direct quotation of the CEQ regulations, and it is not intended to limit public notice and comment.

The same commenter also stated that the section could be interpreted to mean that DOE has a choice whether or not to provide a reasonable opportunity for public participation regarding a proposed action. DOE believes that this would not be a reasonable interpretation of the section. The provision allowing an NOI to be deferred is intended to ensure that scoping comments are timely, not to limit public participation.

Section 1021.311(b). Two commenters recommended that criteria be established for requiring the publication of an Advance NOI; one suggested that an Advance NOI should be required if the delay between the time DOE has decided to prepare an EIS and the beginning of the public scoping process will be longer than three months. DOE disagrees. The purpose of an Advance NOI is to enhance public involvement, not to restrict it. It is neither necessary nor practical to establish fixed criteria for providing this opportunity. Issuance of an Advance NOI exceeds the requirements of the CEQ regulations, and, therefore, no change is necessary to this section.

Section 1021.311(c). Three commenters suggested that the minimum scoping period should be at least 45 days; another commenter objected to extending the minimum scoping period from the current 20 days to 30 days. DOE has retained the proposed 30-day period as a minimum that can be extended when appropriate, commensurate with the importance, size, and complexity of an individual project and other factors (see 40 CFR 1501.8(b)(1)). Late comments may also be considered when practicable (see § 1021.311(e)). DOE believes that the rule provides an adequate opportunity for informed participation without risking significant project delay as a result of the NEPA process.

Section 1021.311(d). Three commenters suggested that there should be at least 30 days between the announcement of the scoping meeting and the meeting itself and that DOE should provide notice of meetings and schedule changes in the **Federal Register** and in other ways. DOE has retained the 15-day notice period as a minimum. DOE believes that a 15-day notice will generally provide adequate opportunity for informed public participation without risking significant project delay. The notice period may be extended when appropriate, commensurate with the importance, size, complexity of an individual project and other factors.

Regarding the request that DOE provide notice of meetings and schedule changes by publication in the **Federal Register** and through other means, DOE believes that the proposed rule reflects the Department's commitment to aggressively promote use of the most effective means of publicizing the details of public meetings, including schedule changes. As noted in § 1021.311(d), DOE intends to use various means of announcements, including the **Federal Register**, news releases, or letters to affected parties, to ensure that the public has adequate notification.

Section 1021.311(g). A commenter noted that the rule did not establish any criteria for determining the need for a scoping period for a supplemental EIS or any reason why such a scoping period should be optional. DOE believes that there is no need to repeat the public scoping process if the scope of the proposed action has not changed. This provision is consistent with 40 CFR 1502.9, which does not require public scoping for a supplemental EIS. When the scope has changed, however, or when the importance, size, or complexity of the proposal warrants, DOE may elect to have a scoping process.

Section 1021.312 EIS Implementation Plan

Section 1021.312(c). A commenter objected to the proposed rule's categorization of target schedules and anticipated consultations with other agencies in an EIS Implementation Plan as discretionary. DOE has modified the rule to include target schedules and anticipated consultations with other agencies in the list of required items (§ 1021.312(b)).

Section 1021.312(d). Several commenters objected to the provision in the proposed rule for making copies of the EIS Implementation Plan available in DOE public reading rooms. To enhance public access to EIS Implementation Plans, DOE has modified the rule to remove the discretionary language and to require that all EIS Implementation Plans be made available in the appropriate DOE public reading rooms or other appropriate locations.

Section 1021.313 Public Review of Environmental Impact Statements

Section 1021.313(a). Several commenters suggested that the minimum public review and comment period for a draft EIS should be 60 to 90 days or more, except under documented extraordinary circumstances. One commenter objected to the establishment of a minimum period and said that if a minimum is established, it should be no more than 30 days. DOE will retain the minimum comment period of 45 days, consistent with CEQ's minimum requirement (40 CFR 1506.10(c)). DOE may specify a longer comment period for an individual proposal, and often does.

Section 1021.313(b). Two commenters suggested that the minimum notice for a public hearing on a draft EIS should be 30 rather than 15 days. DOE does not agree. As noted in responses to comments at § 1021.311 (c) and (d), DOE believes that a 15-day notice will generally provide adequate opportunity for informed public participation without risking significant project delay due to the NEPA process. DOE may provide a longer period of notice before a hearing when the circumstances warrant, and often does.

Section 1021.313(d). Two commenters stated that DOE should be required to publicize the availability of draft and final EISs and the time and place for

public hearings, and to announce the availability of these documents through additional methods beyond a **Federal Register** notice. DOE agrees and has modified the section by removing discretionary language and clarifying that DOE shall use other appropriate means to publicize the availability of such events.

Section 1021.314 Supplemental Environmental Impact Statements

Section 1021.314(a). A commenter questioned why the phrase "new circumstances," which appears in the CEQ regulations (40 CFR 1502.9(c)(1)), was omitted from DOE's proposed rule. The omission in the proposed rule was inadvertent, and "new circumstances" has been added to the final rule.

Section 1021.314(c)(1). (Not included in the final rule). A commenter suggested that a supplemental EIS might be required even though the impacts may not change, such as when the need for the proposed action, the range of reasonable alternatives, or available mitigation measures may have changed. The commenter suggested that the proposed provision at § 1021.314(c)(1) was inconsistent with CEQ provisions at 40 CFR 1502.9(c) regarding when a supplemental EIS is required. DOE has deleted the proposed subsection from the final rule, and other provisions of the section have been redesignated as appropriate.

Section 1021.314(c)(2). (Not included in the final rule). No comments were received on this section, which provided that DOE could revise an existing Record of Decision (ROD) if a decision were subsequently made to proceed with an alternative that was evaluated in the EIS but was not part of the initial decision. The proposed provision has been deleted, however, because the circumstances under which it would apply are adequately addressed by § 1021.315(d) of the final rule (which was § 1021.315(f) of the proposed rule).

Section 1021.314(d). (Section 1021.314(c) of the final rule). Two commenters stated that DOE should provide a public notice and comment opportunity concerning its intent to prepare an EIS Supplement Analysis (SA) and publish a Notice of Availability of the SA and the resulting determination. One commenter further suggested treating an SA like an EA (i.e., providing the same review and comment opportunities as for an EA). An EA, in contrast to an SA, is a NEPA document required by the CEQ regulations. DOE does not believe parallel procedures for the two documents are appropriate, and does not believe it is necessary to seek public input prior to a determination whether a supplemental EIS is required. DOE will follow the criteria at 40 CFR 1502.9(c)(1) when determining whether to supplement an EIS. If a supplement is required, the public will be fully involved in the NEPA process per the requirements at 40 CFR 1502.9(c)(4) and § 1021.314(d) of these rules. In response to the comments, however, DOE has modified § 1021.314(d)(3) to provide that SAs shall be placed in the appropriate DOE public reading rooms or other appropriate locations.

Section 1021.314(d)(1). (Section 1021.314(c)(1) of the final rule). DOE modified this section in accordance with a commenter's suggestion that the content of an SA be described more specifically.

Section 1021.314(d)(2). (Section 1021.314(c)(2) of the final rule). Language in the proposed rule regarding revision of an existing ROD has been deleted from this subsection of the final rule to eliminate potential confusion regarding the basis for revising an ROD. As provided for in § 1021.315(d) of the final rule, DOE may revise an ROD only when it is adequately supported by an existing EIS.

Section 1021.314(d)(3). (Section 1021.314(c)(3) of the final rule). A commenter thought that it should be required, not discretionary, for the SA and the determination resulting from it to be provided to the public in relevant DOE reading rooms. Another commenter suggested that DOE should establish an affirmative system for providing access to SAs. (See response under § 1021.314(d)).

Section 1021.314(e). (Section 1021.314(d) of the final rule). Language of the proposed rule regarding revision of an ROD has been deleted to be consistent with changes made at § 1021.314(d)(2). Additionally, a reference to § 1021.315 of the final rule has been added to this section to clarify and emphasize provisions associated with issuing RODs.

Section 1021.315 Records of Decision

Section 1021.315(b). (Section 1021.313(c) of the final rule). DOE has moved the requirements in this proposed subsection to § 1021.313(c) of the final rule in order to be consistent with the requirements of 10 CFR part 1022. Part 1022 requires that a Statement of Findings for floodplain actions shall be noted in a final EIS.

Section 1021.315(d). (Not included in the final rule). A commenter objected to having the date of issuance of an ROD be the date of signature rather than the date it is published in the **Federal Register** because that could mean that the action might proceed before the public becomes aware of the decision. DOE has modified § 1021.315(b) of the final rule (§ 1021.315(a) of the proposed rule) to clarify that no action may be taken until the decision has been "made public"; proposed § 1021.315(d) has been deleted. Section 1021.315(c) of the proposed and final rule provide a requirement that RODs be published in the **Federal Register**, which exceeds CEQ's requirement. DOE may also provide initial public notification by a press release, for example, announcing the availability of the ROD in appropriate DOE public reading rooms.

Section 1021.315(e). (Section 1021.315(a) of the final rule). DOE agrees with the commenters that the CEQ regulations allow for situations when comments on a final EIS may be appropriate. The phrase leading to confusion regarding this subject has been deleted.

Section 1021.315(f). (Section 1021.315(d) of the final rule). One commenter stated that revision of the preferred alternative would only be appropriate if all of the alternatives had received the same level of analysis and discussion of mitigation. DOE acknowledges the general correctness of this comment, but believes strict equality of treatment among alternatives may not be necessary in all cases. Rather, each alternative must be analyzed to a degree commensurate with its potential for environmental impact, and sufficient information must be provided for all alternatives to allow a proper basis for comparison among them. Rather than making the rule more specific, as the commenter further suggested, DOE has added language to the final rule to assure that revisions of the ROD will only take place if the EIS "adequately" supports the revised decision.

Section 1021.321. Requirements for Environmental Assessments.

Section 1021.321(a). One commenter expressed concern about the breadth of DOE's proposal to prepare an EA for all proposed actions not listed in appendices A, B, or D to subpart D. No change has been made to the final rule. DOE will prepare an EA for such actions unless it has already decided to prepare an EIS. This is consistent with 40 CFR 1501.4(b). DOE may add classes of actions to the lists in appendices A, B, or D in accordance with the CEQ regulations (40 CFR 1507.3).

Section 1021.321(b). One commenter thought the proposed focus of an EA was too limited, in comparison with the CEQ requirements. The discussion in the proposed rule focused on the major

purpose of an EA but was not intended to be limiting. DOE has added clarifying language to indicate that an EA shall serve all the purposes identified in 40 CFR 1508.9(a).

Section 1021.321(c). One commenter suggested that DOE withdraw the requirement to analyze the no action alternative in an EA when a proposed action is required by law or court order. DOE believes that it is appropriate to retain this provision. Presentation of the impacts of the no action alternative establishes a "baseline" for judging the impacts of the proposed action. The purpose served by this requirement (i.e., informing Congress and the public, as well as the decisionmaker, of the implications of not taking the action) is consistent with the reasoning behind the judicial interpretations and the CEQ regulation requiring consideration of the no action alternative in EISs.

Section 1021.322 Findings of no Significant Impact

Section 1021.322(a). DOE accepts a commenter's suggestions regarding clarification of when it is appropriate to issue a Finding of No Significant Impact (FONSI). DOE has modified this section editorially to clarify that a FONSI will be issued only if the related EA supports the finding that the proposed action will not have a significant effect on the human environment.

Section 1021.322(b)(2). A commenter requested that DOE clarify this section to distinguish the types of environmental impacts that may be mitigated consistent with issuance of a FONSI from those warranting preparation of an EIS. Because of the varied nature of DOE's projects, it is not practical to define with precision the types of mitigation that would support the issuance of a FONSI. However, DOE does not view activities that are routine parts of proposed actions, such as routine erosion control, as "mitigation commitments" in the context of § 1021.322(b)(2). Rather, § 1021.322(b)(2) refers to mitigation actions over and above the proposed action that are necessary to render the impacts of the action insignificant. DOE agrees with the commenter's suggestion that actions requiring relocation of endangered species habitat or reconstruction of major wetlands are EIS candidates. DOE believes such determinations should be made case by case, however, taking account of all the pertinent circumstances. DOE has revised the appropriate parts of § 1021.322 to make these distinctions clearer.

Section 1021.322(c). One commenter suggested that DOE should add a commitment to the final rule to provide a notice of availability of FONSIs to interested state and Federal agencies, tribal governments, citizen groups, and members of the general public. The procedure proposed by DOE and retained in the final rule is in accordance with CEQ regulations for distribution of a FONSI. It includes options such as those proposed by the commenter. DOE believes this is adequate, but will accommodate the commenter's further suggestion to make FONSIs available in the appropriate DOE public reading rooms or other appropriate locations. The section is modified accordingly.

Section 1021.330 Programmatic NEPA Documents

A commenter requested clarification of the distinction between programmatic NEPA documents and site-wide NEPA documents as discussed in proposed § 1021.331, especially in view of DOE having proposed periodic review only for the latter. DOE considers site-wide NEPA documents to be programmatic in nature and, accordingly, has merged proposed § 1021.331 into § 1021.330 of the final rule. Many DOE sites contain facilities that support diverse and unrelated missions and activities. Site-wide NEPA documents are programmatic in the sense that they review the collective potential environmental effects of such facilities on a single geographic location, and in the sense that these facilities are operated under a single management. However, DOE has retained the requirement for periodic review of site-wide NEPA documents without extending it to programmatic NEPA documents in general. A site-wide NEPA review evaluates the potential individual and cumulative environmental impacts of ongoing and reasonably foreseeable activities at a DOE site (including potential mitigations of any environmental problems); periodic review of those evaluations is appropriate. Periodic review of programmatic NEPA documents (other than site-wide NEPA documents) would not be useful if the proposed program has been implemented, as often is the case.

Section 1021.330(a). A commenter observed that a programmatic EIS is required not only for "connected actions," but also for "cumulative actions" and "similar actions." DOE did not intend to limit the circumstances that require a programmatic EIS. The section has been revised to delete the reference to connected actions and to refer instead to the CEQ Regulations (40 CFR 1508.18(b)(3)), which define a program to include a group of concerted actions and systematic and connected agency decisions.

Section 1021.331 Site-wide NEPA Documents (Included in Section 1021.330 of the Final Rule)

Section 1021.331(a). A commenter maintained that DOE's requirement in the proposed rule to prepare site-wide EISs for certain large, multiple-facility sites is inconsistent with the definition of an EIS, would not significantly further the purposes of NEPA, and would mainly provide information that is already available from other sources. DOE believes, however, that site-wide NEPA review will serve to improve and coordinate agency plans, functions, programs, and resource utilization. A site-wide EIS provides an overall NEPA baseline for a site that is particularly useful for tiering or as a reference when preparing project-specific NEPA documents for new proposals. The requirement is retained.

Another commenter stated that inclusion of the phrase "as a matter of policy" was inappropriate because site-wide EISs may be required under NEPA in certain circumstances. DOE will prepare site-wide EISs when required, but may also, "as a matter of policy," prepare site-wide EISs for a number of reasons including, for example, to improve site planning efforts, to consolidate activities, and to maximize cost-saving efficiencies.

As discussed at § 1021.330, DOE considers site-wide NEPA documents to be programmatic in nature and, accordingly, has merged proposed § 1021.331 into § 1021.330 of the final rule.

Section 1021.331(b). Several commenters suggested public participation opportunities for the proposed periodic evaluation of site-wide NEPA documents. DOE does not believe it necessary to require public notice of its intent to conduct such evaluations and will evaluate case by case whether such notice is appropriate. DOE has modified the rule, however, so that analyses and determinations resulting from such reviews will be made available in the appropriate DOE public reading rooms or other appropriate locations.

One commenter requested that DOE define the starting time of the cycle for the five-year reviews. DOE does not agree that specifying procedural starting times in this regulation is necessary or appropriate.

Finally, DOE has modified this section of the final rule to delete an unintended reference in the proposed rule to supplementing an EA.

Section 1021.332 Mitigation Action Plans (Section 1021.331 of the Final Rule)

One commenter stated that DOE must narrow the scope of this section, which allows for mitigation in support of a FONSI, citing the answer to Question 40 of CEQ's "Forty Most Asked Questions" (46 FR 18038, March 23, 1981), which addresses the circumstances under which a FONSI based on mitigation is appropriate. DOE has not modified the rule in this regard because it believes that the rule, as proposed, is consistent with CEQ's guidance. The answer to Question 40 focuses on the principle that a FONSI cannot be based only on the possibility of mitigation. However, DOE action under a FONSI supported by mitigation would be based on a commitment to perform the mitigation, not the possibility. This section has been modified to clarify this point; in doing so, DOE separated the discussion of EISs and EAs into different subsections. The discussion regarding Mitigation Action Plans (MAPs) for EISs and EAs/FONSIs can now be found at § 1021.331(a) and (b), respectively.

Two commenters suggested that MAPs be made available for public review and comment. DOE believes that public review of the MAP is not necessary because commitments to perform the subject actions would be included in the FONSI or EIS and associated ROD. The MAP is an internal DOE document that describes the plan for implementing and monitoring mitigation commitments made in these documents. DOE, however, will make copies of MAPs available in the appropriate DOE public reading rooms or other appropriate locations (see § 1021.331(d) of the final rule).

Section 1021.332(a) (Section 1021.331(b) of the Final Rule)

One commenter suggested that the phrase "in significant part" was inappropriate and should be deleted because, no matter how small the mitigation, its accomplishment would be critical to avoid the need for an EIS. The phrase "in significant part" has been deleted from the final rule, and the section has been changed to clarify that DOE commits to performing all mitigations "essential to render the impacts of the proposed action not significant." However, as discussed under and clarified in § 1021.322(b)(2), DOE does not intend the term "commitments to mitigations" to apply to actions that are routinely taken as part of or are integral elements of a proposed action.

Section 1021.340 Classified, Confidential, and Otherwise Exempt Information

A commenter suggested that DOE exercise greater restraint in deciding which information to withhold from the public. DOE believes that this rule in many ways enhances public access to information. With respect to confidential or classified documents, however, DOE must comply with applicable laws and regulations. Procedures for classifying information are beyond the scope of this rule.

Although no comments were received to this effect, DOE has deleted the reference to disclosure of interagency memoranda transmitting comments on EISs. This modification was made to avoid the possible misconception that DOE intended to disclose classified comments. For unclassified comments, the provisions of the CEQ Regulations at 40 CFR 1506.6(f) would apply. Additionally, DOE has deleted from the final rule the inadvertent and unnecessary reference to "restricted" information made in the proposed rule.

Section 1021.340(a). A commenter expressed a concern that unless this section is limited, inappropriate material will be made available to the public, especially draft comments and attorney work product. The provision at issue addresses interagency memoranda transmitting comments. By their nature, such documents are final and become public comments (40 CFR 1506.6(f)). No exception in the requirement is made for the case where the agency's responding unit is its legal counsel. DOE legal counsel's comments (intraagency), like other internal deliberative documents, are exempt from release. The section is not changed.

Section 1021.340(b). One commenter suggested that the phrase "wherever possible" should be deleted because it might lead to a determination that the release of information was not "possible" because of costs or inconvenience. This section addresses the preparation of a document in the context of § 1021.340(c), in which cost and inconvenience are not issues. The final rule has been modified, however, to indicate that DOE will, to the fullest extent possible, segregate any information that is exempt from disclosure into an appendix to facilitate public review of the remainder of the document.

Another commenter suggested that the rule acknowledge that classified portions of documents will undergo an independent review by other Federal agencies whenever appropriate. This comment refers to the responsibilities of the Environmental Protection Agency under section 309 of the Clean Air Act. This rule need not restate review responsibilities that are otherwise provided for by law.

Section 1021.341 Coordination With Other Environmental Review Requirements

Section 1021.341(a). One commenter suggested that the rule provide for integrating NEPA with CERCLA requirements in order to preclude delays and unnecessary duplication of effort. Another expressed a concern that this rule should not prejudice an ongoing, broader discussion of the applicability of NEPA to the environmental restoration activities conducted by Federal agencies other than EPA. It is DOE's policy to integrate NEPA values into activities undertaken pursuant to CERCLA wherever practical. DOE's implementation of this policy is not intended to represent a statement on the legal applicability of NEPA to environmental restoration activities conducted under CERCLA or other legal authority, and DOE believes that this policy will not prejudice any subsequent resolution of the applicability issue.

Section 1021.341(b). DOE agrees with a comment noting that the determination of applicability of other environmental requirements (e.g., those of the Endangered Species Act, section 106 of the Historic Preservation Act, and section 404 of the Clean Water Act) is not always left to the agency proposing an action, but sometimes to other agencies with given program responsibilities. DOE did not intend to imply in the proposed rule that it could unilaterally determine the applicability of such requirements. The final rule has been modified from the proposed rule to state that DOE will determine the applicability of other environmental requirements in consultation with other agencies when necessary or appropriate.

Section 1021.342 Interagency Cooperation

One commenter requested clarification of DOE's procedures for the designation of a lead office within DOE and the designation of cooperating offices and agencies within and without DOE, including entities other than Federal agencies. Another commenter thought that the provisions for involvement of cooperating agencies should be expanded and improved to reference or acknowledge the CEQ regulations. DOE has reinforced its general obligation, acknowledged in § 1021.103, to comply with all CEQ requirements, including those for lead

and cooperating agencies, by establishing in § 1021.342 an affirmative policy to cooperate with other agencies, including the development of interagency agreements. The final rule cites specific CEQ requirements (i.e., 40 CFR 1501.5 and 1501.6) for greater clarity. DOE's internal procedures for carrying out its responsibilities are beyond the scope of this rulemaking, however.

Section 1021.343 Variances

Section 1021.343(a). DOE has modified the rule in response to a commenter's request to make the rule more clearly consistent with the CEQ regulation regarding consultation with CEQ about "alternative arrangements." The final rule also requires DOE to publish a notice in the **Federal Register** after taking an emergency action, which exceeds CEQ requirements.

Section 1021.343(b). A commenter suggested that DOE limit its reduction of time periods established in the rule to extraordinary situations that demand immediate attention. The only time periods that DOE has discretion to change are those established by DOE that exceed CEQ's requirements. DOE does not believe it is appropriate to establish criteria for reducing these time periods, because it is not possible to foresee all possible circumstances under which reductions may be needed. However, in no case would the time periods resulting from application of this subsection be less than the minimums established by CEQ.

Section 1021.343(c). One commenter suggested that the variance provision should be deleted, describing it as a "catch-all." Another suggested that a **Federal Register** notice be required for such variances. DOE believes the variance provision is reasonable and appropriate, and consistent with 40 CFR 1506.11. The rule has been modified, however, to require that a notice of variance be published in the **Federal Register**, as the commenter suggested. Editorial modifications were also made to clarify responsibilities of the Secretary of Energy.

F. General Comments on Subpart D—Typical Classes of Actions

DOE received extensive comments on the approach to NEPA compliance reflected in the proposed regulations and appendices of Subpart D, with the major focus of these comments on the classes of actions proposed in appendices A and B to be categorically excluded from the preparation of an EA or EIS.

Commenters pointed out that DOE failed in the proposed rule to make the finding required by the CEQ regulations (at 40 CFR 1508.4) that the classes of actions categorically excluded from the requirement to prepare an EA or EIS do not individually or cumulatively have a significant effect on the human environment. Two commenters further asserted that DOE must, for each class of action included in appendices A and B, make an explicit finding with an articulated basis, supported by documentation, that the actions encompassed by the class never, except in extraordinary circumstances, have a significant effect on the human environment.

DOE agrees that the CEQ regulations do require DOE to find that the classes of actions in appendices A and B will not individually or cumulatively have a significant effect on the human environment and that this finding be made in procedures adopted in implementing the CEQ regulations. Accordingly, DOE has included such a finding at § 1021.410(a) of the final rule. However, DOE does not believe that it is required to set forth in the preamble a detailed, individualized explanation for such finding for each of the classes of actions in appendices A and B. In finding that the classes of actions categorically excluded in the final rule will not individually or cumulatively have a significant effect on the human environment, DOE has considered, among other things, its own experiences with these classes of actions, other agencies' experiences as reflected in their NEPA procedures, and the comments received on the proposed rule.

One commenter also questioned DOE's exclusive reliance on experience to support its identification of categorical exclusions and the use of memoranda-to-file as a part of this experience record because, the commenter asserted, DOE has determined that memoranda-to-file do not constitute acceptable NEPA documentation. Although DOE stopped using the memorandum-to-file as part of its NEPA process on September 30, 1990, DOE believes that memoranda-to-file prepared before that date are valid documents that should be considered as part of DOE's experience with particular actions. The purpose of memoranda-to-file was to determine whether proposed actions, not included in the list of categorical exclusions, would have clearly insignificant impacts, and therefore not require either an EA or an EIS. This is precisely the type of document that is relevant for the finding required by 40 CFR 1508.4.

Some commenters stated that DOE's extensive list of categorical exclusions suggested a DOE position that classes of actions can be categorically excluded if, some of the time, they would not have significant impacts. The commenters compared this to the CEQ regulations, which clearly limit categorical exclusions to those classes of actions that have significant impacts only in extraordinary circumstances. DOE believes its categorical exclusions comply with the CEQ regulations and agrees that to be eligible for categorical exclusion, a class of actions must not individually or cumulatively have significant effects on the human environment except in extraordinary circumstances. DOE has determined that the classes of actions included in appendices A and B of the final rule meet this standard.

One commenter noted that if the individual actions encompassed by a categorical exclusion have the potential for significant impact on a cumulative basis, then the categorical exclusion is invalid. DOE agrees that it must find that classes of actions categorically excluded do not individually or cumulatively have a significant effect on the human environment. The commenter further noted that if a proposal encompasses actions within multiple categorical exclusions and cumulatively the actions have the potential for significant impacts, then the categorical exclusions encompassed are invalid. DOE agrees that such a proposal could not be categorically excluded but believes that the individual categorical exclusions would still be valid. DOE has added § 1021.410(b)(3) to address this concern and to preclude the segmentation of a proposal into component parts, which as discrete proposals are categorically excluded, to avoid preparation of an EA or EIS.

Commenters, expressing the view that DOE's proposed categorical exclusions are too broad, asserted that DOE should prepare more EAs and that DOE's extensive list of categorical exclusions results from a reluctance on DOE's part to prepare EAs because its internal EA requirements are so burdensome. Commenters asserted that the approach represented by the expanded list of categorical exclusions is not consistent with the requirements of NEPA and the CEQ regulations. One commenter noted that an increased reliance on EAs would not necessarily require vast new commitments of time and resources if DOE would take heed of CEQ regulations and guidance that intend the EA to be a concise and expeditious analysis. Other commenters criticized DOE for presenting a confusing and illogical mix of activities, ranging from

the payment of salaries to the restart of nuclear facilities, and for not having a *de minimis* level for actions to be subject to a NEPA review.

The extensive list of categorical exclusions results primarily from the fact that DOE is engaged in many different types of activities. DOE's extensive list of categorical exclusions also reflects DOE's policy that some NEPA review is required for all DOE actions potentially affecting the environment, even if there is no apparent potential for any significant effect. DOE believes the extensive list of categorically excluded actions in the final rule is consistent with NEPA and the CEQ regulations. The CEQ regulations require agencies to reduce excessive paper work and avoid delays by using categorical exclusions (40 CFR 1500.4(p) and 1500.5(k)). DOE will prepare EAs when necessary—that is, when the class of actions has not been excluded and/or when DOE is uncertain whether the proposed action would have significant environmental impacts. DOE believes it will serve environmental concerns best if it focuses its efforts on analyzing those actions that may or do have potential for significant impact.

One commenter stated that the categorical exclusions in proposed appendix B were inappropriate because they were vaguely drafted and were entirely without reference to size, volume, or significance in a way that would encompass major Federal actions that were likely to have significant environmental impacts. Others expressed concern about the broad scope of the classes of actions categorically excluded. DOE has reevaluated all categorical exclusions in the proposed rule to determine the appropriateness of more precise language, adding limiting factors or otherwise narrowing the scope of the categorical exclusions, and has modified several accordingly. DOE has decided not to categorically exclude some classes of actions that were included on the list in the proposed rule. These deletions and changes are described in more detail in the discussion under section III G below.

One commenter suggested that DOE delete proposed appendix B in its entirety, and instead add explicit limits on the size of each class of actions proposed in that appendix and move the classes of actions to proposed appendix A. The commenter further suggested that DOE prepare EAs or EISs for all proposed activities beyond the expressed size limit of the classes of action in the resulting appendix A.

DOE believes it is reasonable to retain two appendices for categorical exclusions but has revised the distinction between the types of classes of actions included in appendices A and B. Appendix A in the final rule lists categorical exclusions applicable to general agency actions and includes those classes of actions with impacts so remote or conjectural as to preclude meaningful consideration. Appendix A includes some classes of actions to which NEPA probably does not apply but that DOE has listed to clarify that neither an EA nor EIS is needed and to avoid any potential misunderstanding associated with the absence of such listing. Appendix B in the final rule lists categorical exclusions that are applicable to specific agency actions and have conditions specified as integral elements of the classes of actions. The conditions that are integral elements of the classes of actions in appendix B of the final rule were the eligibility criteria in § 1021.410(b) of the proposed rule. Even though originally proposed to apply to all categorical exclusions as eligibility criteria, DOE believes that inclusion of the conditions specified in appendix B would be meaningless for the categorical exclusions DOE retained in appendix A in the final rule. This is because appendix A is limited to classes of actions with impacts that cannot be meaningfully evaluated. DOE moved the classes of actions with impacts that are not so remote or conjectural as to preclude meaningful analysis that were included in appendix A of the proposed rule to appendix B in the final rule so that the conditions specified in appendix B would be integral elements of these classes of actions. Categorical exclusions in appendices A and B have been found by DOE not to individually or cumulatively have a significant effect on the human environment.

Two commenters were concerned that, while DOE's proposed rule purports to abolish the memorandum-to-file, DOE has merely substituted a new system, "documentation," which also would not be made available to the public. One commenter considered the documented categorical exclusions as "phantom" EAs that would reinsert into DOE's NEPA process the very subjectivity, discretion, and secrecy that SEN 15–90 was intended to eliminate. Another commenter viewed DOE's creation of the proposed Appendix B as indicating a lower level of certainty about those categorical exclusions and noted that, when an analysis is required to decide whether an action meets the criteria for a categorical exclusion, then the proper format for that analysis is an EA subject to public review, not documentation behind closed doors.

DOE has eliminated the requirements for documentation of categorical exclusions from its regulations. It was not DOE's intent that any categorical exclusion in appendix B be supported by an analysis of environmental effects ("phantom" EAs) or that the documented categorical exclusion be equivalent to the memorandum-to-file, which DOE has eliminated from its NEPA procedures. The documentation that DOE referred to for these categorical exclusions in the proposed rule was to be a record of the determination that the action was appropriately categorically excluded and was to be used for internal oversight purposes. Although the CEQ regulations require public review of categorical exclusions proposed for listing, the regulations do not require documentation, public review, or notification when categorical exclusions are applied.

One commenter was concerned that proper documentation is needed to ensure that an established process has been followed, and suggested that DOE use a checklist to demonstrate why an action has been excluded from further NEPA review. DOE is evaluating the need for internal recordkeeping procedures and, if such procedures are established, will consider the use of a checklist.

In contrast to the commenters who believed that the classes of actions proposed to be categorically excluded were too broad, some commenters believed the classes of actions to be categorically excluded should be broader than those proposed. One commenter thought that rather than listing specific classes of actions, DOE should establish "guiding criteria." Some commenters suggested that certain classes of actions, in addition to those in the proposed rule, should be categorically excluded in the final rule. DOE believes that the classes of actions categorically excluded in the final rule are appropriate and does not believe that it could make the necessary findings at this time for any broader classes of actions. As to the comments suggesting the categorical exclusion of classes of actions not proposed by DOE, DOE cannot categorically exclude in the final rulemaking any classes of actions not included in the proposed categorical exclusions. The CEQ regulations require that categorical exclusions be established only after public notice and the opportunity for public comment. DOE will consider the suggestions of the

commenters in determining whether to propose new or broader classes of actions for categorical exclusion in a future rulemaking.

The comment was made that because many of the classes of actions proposed to be categorically excluded in appendices A and B entail activities that could affect the character or use of historic properties, DOE should make absolutely clear in its final rule that the categorical exclusion of an action does not exempt it from the requirements of other environmental regulations. DOE's NEPA rule addresses NEPA compliance only, not other environmental requirements. Coordination with other environmental review requirements is addressed in § 1021.341; in addition, condition B.(4)(i) in appendix B of the final rule precludes a proposed action from categorical exclusion if the action would have an adverse effect on historic properties.

Four commenters expressed concern about the lack of public participation in, and public scrutiny of, the process of determining whether particular proposed actions are appropriately categorically excluded. One commenter suggested that records of determinations that proposed actions are categorically excluded be placed in public reading rooms. Another commenter felt that in view of the breadth of the classes of actions on the list of categorical exclusions and the discretion to be exercised in applying eligibility criteria to proposed actions, there should be public participation in the process.

The CEQ regulations do not provide for public participation in determinations that particular proposed actions are categorically excluded, nor do they require that records of such determinations be kept or made public. DOE believes that requiring public participation in categorical exclusion determinations or that documentation of categorical exclusion determinations be made available in public reading rooms would be contrary to the purposes of categorical exclusions, as stated in the CEQ regulations—reducing paperwork and avoiding delays.

G. Comments on Specific Sections of Subpart D—Typical Classes of Actions

Section 1021.400 Level of NEPA Review

A commenter suggested that § 1021.400 as proposed should address proposed actions covered by "memoranda-to-file." DOE does not believe a reference in the rule to memoranda-to-file is needed or appropriate because such documents are no longer part of DOE's NEPA procedures. To clarify the effect of this rulemaking on completed NEPA reviews and documents, DOE has changed § 1021.400(b) in the final rule to state that "any completed, valid NEPA review does not have to be repeated, and no completed NEPA documents need to be redone by reasons of these regulations, except as provided in § 1021.314" (which concerns supplemental EISs). Because a memorandum-to-file issued before September 30, 1990, is a valid NEPA document, § 1021.400(b) would apply. (See additional discussion under section III B above.)

A commenter suggested that clarification be provided in § 1021.400(b), as proposed, on the use of existing site-wide EAs or EISs during the evaluation of those documents or the preparation of new site-wide documents for continuing or new actions. DOE believes that this issue is generally addressed by § 1021.400(b) and that any further clarification is better addressed in internal guidance than in this rulemaking because of site-specific issues and circumstances. Accordingly, DOE did not provide the requested clarification in the final rule.

Another commenter was concerned that the language in § 1021.400(c), as proposed, did not make it sufficiently clear that the application of a categorical exclusion to a particular DOE proposal depends on the proposal meeting the eligibility criteria of proposed § 1021.410(b). DOE agrees with respect to those classes of actions listed in appendix B of the final rule. However, rather than modifying § 1021.400(c) in the final rule, DOE has included the eligibility criteria in § 1021.410(b) of the proposed rule in appendix B of the final rule as conditions that are integral elements of the classes of actions listed in appendix B. DOE has not included the proposed eligibility criteria in § 1021.410 of the final rule. DOE believes that this provides the clarification requested by the commenter.

A commenter expressed concern that the proposed rule did not provide for instances where actions falling within a category of categorically excluded actions might have significant environmental effects because of extraordinary circumstances. DOE intended to provide for such instances in § 1021.400(c) as proposed. In light of the commenter's concern, DOE has modified § 1021.400(c) in the final rule and added § 1021.410(b) (2) to clarify that DOE will not proceed with the level of review indicated in the appendices if there are extraordinary circumstances related to the proposal that may affect the significance of its environmental effects. DOE has included a circumstance cited by the commenter (i.e., the unresolved conflicts concerning alternative uses of available resources within the meaning of § 102(2)(E) of NEPA) as an example of an extraordinary circumstance in § 1021.410(b) (2) of the final rule. DOE also modified § 1021.400(d) in the final rule to be consistent with the revisions to § 1021.400(c).

Section 1021.410 Application of Categorical Exclusions (Classes of Actions That Normally Do Not Require EAs or EISs)

Section 1021.410(a) General. In the final rule, DOE has expanded this section to clarify the application of categorical exclusions and has divided the proposed section into four parts. DOE has incorporated § 1021.410(b) of the proposed rule into appendix B in the final rule. Therefore, § 1021.410(a) of the proposed rule as modified is § 1021.410 in the final rule, as explained below.

Section 1021.410(a) states DOE's required finding that the classes of actions listed in appendices A and B of subpart D are classes of actions that DOE has determined do not individually or cumulatively have a significant effect on the human environment.

Section 1021.410(b)(1) clarifies that to be eligible for categorical exclusion, the proposal must be determined by DOE to fit within a class of actions listed in appendix A or B. For a proposal to fit within a class of actions in appendix B, it must meet the conditions specified in B.(1)–(4) in appendix B.

Section 1021.410(b)(2) clarifies that to find that a proposal is categorically excluded, DOE must determine that there are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal. This section identifies three examples of extraordinary circumstances that could exclude actions within a class of actions in appendix A or B from eligibility for categorical exclusions. These examples are unresolved conflicts concerning alternative uses of available resources, scientific controversy about the environmental effects of the proposal, and uncertain effects or effects involving unique or unknown risks.

Section 1021.410(b)(3) clarifies that DOE, in determining that a proposal is categorically excluded, shall find that the proposal is not connected to other actions with potentially significant impacts, is not related to other proposed actions with cumulatively significant impacts (following 40 CFR 1508.25(a) (1) and (2)), and is not precluded by 40 CFR 1506.1 or § 1021.211 of these regulations. Section 1021.410(b)(3) was included in

response to comments concerning cumulative impacts, as discussed above.

Section 1021.410(c) includes the statements contained in proposed § 1021.410(a) concerning the application of the classes of action by any element of DOE and the division of appendices A and B only for organizational purposes. In the final rule the word "organizational" was added before "element of DOE" to be consistent with § 1021.102(a).

Section 1021.410(d) modifies § 1021.410(a) as proposed to clarify that, to avoid segmentation, the classes of actions are intended to include all activities necessary to implement a proposal, such as transportation activities and award of implementing grants and contracts.

A commenter recommended that § 1021.410(a) as proposed be revised to provide for a case-by-case determination that a proposed action, not included within classes of actions listed in appendices A and B, be categorically excluded if the action meets the eligibility criteria set forth in § 1021.410(b). DOE has not made the requested revision because, as discussed above, the CEQ regulations require that categorically excluded classes of actions be identified in an agency's published procedures. The proposed eligibility criteria and the appendix B conditions in the final rule are not classes of actions.

Section 1021.410(b) Eligibility criteria for categorical exclusions (Appendix B of the final rule). One commenter expressed concern that DOE used as eligibility criteria for categorical exclusions some of the factors in 40 CFR 1508.27 intended for evaluating the intensity or severity of impacts and for determining the significance of the environmental impacts of proposed actions. The commenter pointed out that the analysis of such factors is more appropriately accomplished in an EA. The commenter acknowledged, however, that the use of these factors as eligibility criteria is better than no requirement for screening and suggested that, if such a screening mechanism is developed, it include several additional critical factors found in 40 CFR 1508.27. Another commenter also recommended that other factors in 40 CFR 1508.27 be added to DOE's list of eligibility criteria.

DOE agrees that subjective evaluation of the intensity or severity of an impact as prescribed in 40 CFR 1508.27 is not appropriate in a determination that an action fits within a categorically excluded class of actions. The conditions specified as integral elements of the classes of actions in appendix B in the final rule, which were the eligibility criteria in proposed § 1021.410(b)(1), require a factual determination. That is, the presence, not the severity, of the factor would make a proposed action ineligible for categorical exclusion. For example, 40 CFR 1508.27(b)(8) requires an evaluation of "(t)he degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places." On the other hand, condition B.(4)(i) of DOE's final rule screens from categorical exclusion status proposed actions that "adversely affect environmentally sensitive resources," which include property listed on the National Register.

The final rule retains the eligibility criteria proposed for classes of actions in appendix B as conditions that are integral elements of the classes of actions in appendix B in the final rule. DOE did not include, however, additional conditions based on the CEQ factors in 40 CFR 1508.27. DOE believes that controversial environmental effects (40 CFR 1508.27(b)(4)) and uncertain effects or effects that involve unique or unknown risks (40 CFR 1508.27(b)(5)) would not, except in extraordinary circumstances, be associated with any of the categorically excluded classes of actions included in the final rule. As explained earlier, DOE has identified these factors as possible extraordinary circumstances in § 1021.410(b)(2) of the final rule. The other CEQ criteria of establishing a precedent for future actions with significant effects (40 CFR 1507.28(b)(6)) or relation to other actions with individually insignificant but cumulatively significant impacts (40 CFR 1507.28(b)(7)) are included in § 1021.400(b)(3) of the final rule, discussed above.

In the final rule, DOE has added a condition that is an integral element of the classes of actions listed in Appendix B: a proposal must be one that would not disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases (B.(3)). This condition is similar to an element of several categorical exclusions in the proposed rule (proposed A1.34, A3.1, A3.5, B3.3, B6.2, and B6.7) that concerned inadvertent or uncontrolled movement of hazardous substances, pollutants, contaminants, or non-native organisms.

In response to comments that many of the proposed categorical exclusions were too broad, DOE believes that condition B.(3) in the final rule, along with other changes described herein, will appropriately narrow the scope of categorical exclusions in appendix B. Proposed disturbance with subsequent unpermitted or uncontrolled releases of hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products warrants analysis to determine if there is potential for significant impact. DOE is concerned that such an action, otherwise without potential for significant impact, may have the side-effect of spreading preexisting contamination in the environment.

As a consequence of adding condition B.(3) to the final rule, the corresponding restricting phrase proposed as part of several categorical exclusions is not included in those categorical exclusions in the final rule. With regard to proposed A1.34 (final B1.3) that concerns component testing (generally an indoor activity), condition B.(1) of the final rule (i.e., proposals cannot threaten applicable environment, safety, and health requirements) would provide the assurance that emissions are controlled. With regard to the condition in proposed A3.1 (site characterization/environmental monitoring) and proposed A3.5 (research related to conservation of fish and wildlife) that the proposals not result in the uncontrolled movement of non-native organisms, DOE now believes that these actions (final B3.1 and B3.3, respectively) will not foreseeably involve non-native organisms.

In response to a suggestion by a commenter that § 1021.410(b)(1)(i) should have a disjunctive effect, the word "and" in the phrase "applicable statutory, regulatory, and permit requirements" has been changed to "or" in condition B.(1) in appendix B in the final rule. DOE also added the phrase "for environment, safety, and health" to the condition in appendix B.(1) in the final rule to clarify its intent that the term "requirements" applies to safety and health as well as environment in response to a comment in this regard.

DOE has revised the proposed eligibility criterion in § 1021.410(b)(1)(ii) of the proposed rule as condition B.(2) in appendix B in the final rule, and that condition includes waste storage facilities because DOE believes the siting, construction, or major expansion of waste storage facilities cannot be categorically excluded.

DOE has revised proposed §§ 1021.410(b)(1)(iii) and (b)(2) of the proposed rule as condition B.(4) in the final rule, and that condition refers to "environmentally sensitive resources" rather than "environmentally sensitive areas" in light of a comment that the

proposed criteria reflected the sensitivity of the habitat of protected species but not the species themselves. Condition B.(4) also includes the protected species as well as its habitat as examples of environmentally sensitive resources.

In response to another comment on § 1021.410(b)(2) of the proposed rule, DOE added the phrase "but not limited to" after the word "include" in condition B.(4) in appendix B in the final rule to clarify that the listing of environmentally sensitive resources is not intended to be inclusive.

H. Comments on Appendices

In the following discussion of the comments on the appendices, the headings are those used in the table of contents of the appendices in the proposed rule. The conversion table on the following page shows which proposed classes of actions have not been included in the final rule and also refers the reader to the appropriate headings in the final rule for those proposed classes of actions that are included in the final rule. There were many numbering changes between the proposed and final rule because some classes of actions were deleted, combined with other classes of actions, or reordered to group similar classes of actions. As explained above, many classes of actions in proposed appendix A of the proposed rule were moved to appendix B in the final rule so that the conditions specified in appendix B would be integral elements of these classes of actions.

Proposed A1.1 Administrative Procurements (Final A1)

Proposed A1.2 Routine Financial Transactions (Final A1)

Proposed A1.16 Personnel Actions/ Personal Service Contracts (Final A1 and A8)

Proposed A1.25 Business Support Activities (Final A1)

DOE consolidated these four separate categorical exclusions into one inclusive categorical exclusion in the final rule. DOE believes that there was overlap among the four and that combining them into one categorical exclusion avoids segmentation. (See also discussion of proposed A1. 16 below.) A1 in the final rule categorically excludes routine actions necessary to support the normal conduct of business, which are those actions that are encompassed in the four proposed categorical exclusions.

Proposed A1.3 Grant/Contracts for Categorically-Excluded and Some Interim Actions (Not Included in the Final Rule)

DOE has not included this proposed categorical exclusion in the final rule because grants and contracts are merely elements of a proposed action rather than separate actions, as indicated in § 1021.410(d) of the final rule. Separating the award of grants or contracts to implement the proposed action from the proposed action for purposes of determining the level of NEPA review would constitute inappropriate segmentation.

Conversion Table

Subpart D—Typical Classes of Actions

Designation of Classes of Action in Subpart D

Proposed	Final
A1.1	A1.
A1.2	A1.
A1.3	Not included.[1]
A1.4	A2.
A1.5	Not included.[2]
A1.6	B1.1.
A1.7	Not included.[2]
A1.8	A3.
A1.9	A4.
A1.10	A5.
A1.11	A6.
A1.12	A6.
A1.13	Not included.
A1.14	A6.
A1.15	A7.
A1.16	A1, A8.
A1.17	A9.
A1.18	A9.
A1.19	A10.
A1.20	A11.
A1.21	A9.
A1.22	A12.
A1.23	B1.2.
A1.24	A13.
A1.25	A1.
A1.26	B1.3, B2.5.
A1.27	B1.15, B4.11.
A1.28	B1.3, B2.5.
A1.29	B1.4.
A1.30	B1.5.
A1.31	B1.6.
A1.32	B1.7.
A1.33	B1.8.
A1.34	B1.3.
A1.35	B1.3.
A1.36	B1.9.
A1.37	B1.10.
A1.38	B1.11.
A1.39	B5.1.
A1.40	B1.12.
A1.41	B1.13.
A1.42	Not included.[1]
A1.43	Not included.[1]
A1.44	Not included.[1]
A1.45	B1.14.
A1.46	Not included.[1]
A2.1	B2.1.
A2.2	B2.2.
A2.3	A12, B1.3, B2.2, B2.5.
A2.4	B2.3.
A2.5	B2.4.
A3.1	B3.1.
A3.2	B3.1.
A3.3	B3.1.
A3.4	B3.2.
A3.5	B3.3.
A3.6	B3.4.
A3.7	B3.5.
A3.8	B3.6.
A4.1	B4.1.
A4.2	A7.
A4.3	B4.2.
A4.4	B4.3.
A4.5	B4.4.
A4.6	Not included.
A4.7	B4.11.
A4.8	B4.5.
A4.9	B4.6.
A4.10	B4.7.
A5.1	B5.2.
A5.2	B5.3.
A5.3	B5.4.
A5.4	Not included.
A6.1	A14.
A6.2	A15.
A6.3	B7.1.
B1.1	B1.15.
B1.2	B1.3.
B1.3	B1.16.
B1.4	B1.17.
B1.5	B1.18.
B1.6	B1.19.
B1.7	B5.1.
B1.8	B1.20.
B1.9	Not included.[1]
B2.1	B2.5.
B3.1	B3.1, B3.8, B6.2.
B3.2	B3.7.
B3.3	B3.8, B6.2.
B3.4	B3.9.
B3.5	B3.10.
B3.6	B3.11.
B4.1	B4.8.
B4.2	B4.9.
B4.3	B4.10.
B4.4	B4.11.
B4.5	B4.12.
B4.6	B4.13.
B4.7	B1.21.
B5.1	B5.5.
B5.2	B5.6.
B5.3	B5.7.
B5.4	B5.8.
B5.5	B5.9.
B5.6	B5.10.
B5.7	B5.11.
B5.8	B5.12.
B5.9	B5.13.
B5.10	B5.14.
B5.11	B5.15.
B5.12	B5.16.
B6.1	B6.1.
B6.2	B6.2.
B6.3	B6.3.
B6.4	C16, B6.4, B6.5, B6.6.
B6.5	B6.6.
B6.6	B6.7.
B6.7	B1.22.
B6.8	B6.8.
B7.1	B7.2.
B7.2	Not included.
C1	C1.
C2	C8.
C3	C2.
C4	C3.
C5	C10, C11.
C6	C12.
C7	C4.
C8	C5.
C9	C6.
C10	C7.
C11	C13.

Proposed	Final
C12	C14.
C13	C15.
C14	C16.
C15	Not included.
C16	C9.
D1	D1.
D2	D2.
D3	D3.
D4	D4.
D5	D5.
D6	D6.
D7	D8.
D8	D9.
D9	D10.
D10	D11.
D11	Not included.
D12	D12.

[1] In scope of broader proposals.
[2] CEQ definition of action excludes this classification.

Proposed A1.5 Pass-throughs (Not Included in the Final Rule)

DOE has not included this proposed categorical exclusion in the final rule because congressionally mandated funding pass-throughs are "ministerial actions," which DOE does not propose and over which it has no discretion. Therefore, these are not DOE actions as discussed above under "action" in III C.

Proposed A1.7 Administrative Enforcement Actions (Not Included in the Final Rule)

DOE has not included this proposed categorical exclusion in the final rule because the CEQ definition of a "major Federal action" at 40 CFR 1508.18(a) specifically excludes administrative enforcement actions.

Proposed A1.11 Rulemaking for Technical and Pricing Proposals (Final A6)

Proposed A1.12 Rulemaking for Grants and Cooperative Agreements (Final A6)

Proposed A1.14 Procedural Rulemakings (Final A6)

DOE has consolidated these proposed categorical exclusions into one categorical exclusion in the final rule because rulemakings that are strictly procedural include those described in proposed A1.11 and A1.12.

Proposed A1.13 Rulemaking for Categorically-excluded Actions (Not Included in the Final Rule)

DOE has not included this categorical exclusion in the final rule. Specific classes of rulemakings that are categorically excluded are specified in appendix A of the final rule; other types of rulemaking will require an EA or EIS.

Proposed A1.15 Transfer of Property, Use Unchanged or Categorically Excluded (Final A7)

DOE has modified the wording of this categorical exclusion in the final rule. The phrase referring to proposed uses that are "categorically excluded in this subpart" has been deleted because DOE believes that transfers, leases, dispositions, or acquisitions of property that are part of a broader proposed action must be reviewed for NEPA purposes in the context of the broader proposed action. Separating these property transfers from the proposed new use would constitute inappropriate segmentation. DOE also deleted the phrase referring to disposition through the General Services Administration because the phrase was unnecessary.

Proposed A1.16 Personnel Actions/ Personal Service Contracts (Final A1 and A8)

One commenter was concerned that technical support contracts and management and operating (M&O) contracts should not be categorically excluded because hiring certain contractors or using ineffective contracting practices and procedures might have environmental impacts that could require an EA or EIS. DOE does not believe that contracts for technical services, management and operation of DOE facilities, or personal services, or even contracting procedures in general, have potential for significant environmental effects because they are merely arrangements to perform future actions, yet to be assigned. Subsequent actions carried out under such contracts, however, may have environmental consequences and will be the subject of NEPA review. Furthermore, Federal procurement policy requires that contracts be awarded only to responsible contractors (48 CFR part 9), and based on this standard, DOE will not knowingly contract with an environmentally irresponsible party. DOE believes that discussion of the purported environmental merits of potential contractors in a NEPA document would be extremely speculative and not amenable to meaningful analysis.

The commenter also mentioned that DOE's proposed "Alternate Contracting System" would benefit from NEPA analysis. DOE believes that this reference is to the alternate business strategy for environmental restoration (Notice of Intent to develop an environmental restoration alternate business strategy, 55 FR 48544, October 31, 1990). This strategy would establish environmental restoration management contractors at certain DOE field offices, separate from the M&O contractors that otherwise manage DOE facilities. DOE believes that establishing the framework for these contracts does not have the potential for significant environmental impact. Specific restoration activities carried out under the contracts will be subject to separate NEPA review.

DOE has revised the categorical exclusion in the final rule to refer only to the award of contracts (final A8) and has rephrased it to clarify that contracts for technical support services and for management and operation of a government-owned facility are not subsets of contracts for personal services. In the final rule, personnel actions are included in the categorical exclusion for actions necessary to support the normal conduct of business (Final A1). (See also discussion of proposed A1.1, A1.2, A1.16, and A1.25, above.)

Proposed A1.17 Document Preparation (Final A9)

Proposed A1.18 Information Gathering/Analysis/Dissemination (Final A9)

Proposed A1.21 Classroom Training and Informational Programs (Final A9)

DOE has consolidated these categorical exclusions into one covering information gathering, analysis, documentation preparation, and dissemination of information. DOE believes that these proposed categorical exclusions are interrelated, and combining them into one categorical exclusion avoids segmentation. One commenter suggested that the list of documents given as examples should be expanded to include monitoring reports, permit applications, project scope, and cost estimating. DOE does not believe that additional examples are necessary to ensure that the scope of the consolidated categorical exclusion is clearly understood to be paperwork activities.

Proposed A1.19 Reports or Recommendations on non-DOE Legislation (Final A10)

One commenter suggested that the proposed categorical exclusion be expanded to include reports or recommendations on legislation or rulemaking proposed by DOE. This change was not made because DOE-proposed legislation and rulemaking that is not categorically excluded in the final rule may require preparation of an EA or an EIS.

Proposed A1.26 Routine Maintenance/ Custodial Services for Building Structures and Equipment (Final B1.3 and B2.5)

Proposed A1.34 Routine Testing/ Calibration of Facility Components (Final B1.3)

Proposed A1.35 Routine Decontamination, not part of Decommissioning (Final B1.3)

Proposed B1.2 Removal of Contamination, not Decommissioning Project (Final B1.3)

DOE has revised the definition and scope of proposed A1.26 to clarify that the scope includes work on infrastructures (such as roads), maintenance work of a predictive nature (i.e., continuous or periodic monitoring or diagnosis to forecast component degradation), and suspension of operations to perform maintenance and subsequent resumption of operations. In addition, DOE has included custodial services in the general description and scope paragraph in the final rule (rather than as an example of routine maintenance, as proposed).

DOE has added two examples of routine maintenance. One example (example B1.3(n) in the final rule) concerns predictive maintenance and incorporates proposed A1.34 (discussed below under that heading). The other example (example B1.3(o) in the final rule) concerns routine decontamination of the interior surfaces of buildings and removal of contaminated equipment and other material. This last example incorporates activities in proposed A1.35 and proposed B1.2, as discussed below under those headings.

One commenter objected to categorically excluding the repair and maintenance of transmission facilities (example (m) of proposed A1.26 and final B1.3) because of the potential for polychlorinated biphenyl (PCB) contamination, noting that maintenance of transformers at many DOE facilities has resulted in environmental contamination. The routine maintenance procedure referred to by the commenter (i.e., draining a small amount, about one quart, of transformer oil into the ground to flush out impurities before sampling) was common practice before regulations controlling PCBs were established in 1979 (40 CFR part 761). This practice has now been discontinued. DOE believes that maintenance activities involving PCBs carried out in compliance with applicable regulations are appropriate for a categorical exclusion. For purposes of clarity, DOE has added a stipulation to the example that the activities be conducted in accordance with 40 CFR part 761.

The commenter was concerned that cumulative maintenance activities involving PCBs would have significant impact and stated that an EA or EIS might be a valuable means of demonstrating long-term benefits of a systematic phaseout of PCB-containing equipment. In establishing this categorical exclusion, DOE has determined, based on its experience, that the class individually and cumulatively has no potential for significant environmental effect.

In response to two commenters' requests that applicable statutory and regulatory requirements be added to the example concerning removal and replacement of tanks and piping (example (n) of proposed A1.26), DOE has included citations of applicable statutory and regulatory requirements. As one commenter also requested, DOE has added a requirement that there be no evidence of leakage based on regulatory performance requirements. On further analysis, DOE determined that removal and replacement of tanks and piping form an example of an upgrade rather than routine maintenance. Accordingly, DOE has deleted it as an example of routine maintenance and included it as an example in B2.5 in the final rule (B2.1 in the proposed rule), which addresses safety and environmental improvements and facility upgrades.

Proposed A1.27 Siting/Construction/ Operation of Storage Area for Maintenance/Administrative Supplies/ Equipment (Final B1.15 and B4.11)

To avoid inappropriate segmentation, DOE has not included this categorical exclusion as a separate class of actions in the final rule but incorporated this categorical exclusion into proposed B1.1 (B1.15 of the final rule) as one of several categorically excluded support facilities and into proposed B4.4 (B4.11 of the final rule). (See the discussion under proposed B1.1, below.)

Proposed A1.28 Replacement/ Extension of Existing Utility Systems for Categorically-Excluded Actions (Final B1.3 and B2.5)

Commenters requested that the concepts of repair, modification, and upgrade be added to this categorical exclusion. DOE has not included this categorical exclusion in the final rule because it duplicates activities (e.g., replacement of existing utility systems) in both proposed A1.26 (B1.3 of the final rule) and B2.1 (B2.5 of the final rule). DOE also now recognizes that extension of utility systems required as a result of categorically excluded actions is part of the larger action and the exclusion would have resulted in inappropriate segmentation.

Proposed A1.31 Installation of/ Improvements to Liquid Retention Tanks, Small Basins (Final B1.6)

DOE has narrowed the scope of this categorical exclusion by limiting the size of basins installed or modified to generally less than one acre. One commenter felt that the term "liquid retention" implied the exclusion of holding tanks for gas and other materials and suggested that the term be deleted. DOE intended the categorical exclusion to apply to a facility's improved handling of materials (such as sludges, wastewater, or stormwater) to control spills and runoff. DOE deleted the term "liquid" and otherwise modified the categorical exclusion to clarify this intent.

Proposed A1.32 Acquisition/ Installation/Operation of Communication Systems, Data Processing Equipment (Final B1.7)

In response to a comment on this categorical exclusion, DOE has added "removal" to the stated activities.

Proposed A1.34 Routine Testing/ Calibration of Facility Components (Final B1.3)

In response to a comment, DOE has added portable equipment in the list of proposed items. Because testing and calibration of equipment is predictive maintenance, DOE has incorporated this proposed categorical exclusion as an example (example (n)) in the categorical exclusion for routine maintenance (proposed A1.26 and final B1.3).

Proposed A1.35 Routine Decontamination, not Part of Decommissioning (Final B1.3)

One commenter objected to categorically excluding decontamination activities, even if they are not part of a decommissioning project. At many DOE facilities, decontamination of equipment, rooms, hot cells, and the interior of buildings is a daily or weekly activity, which includes wiping with rags, using strippable latex, and minor vacuuming. These activities are part of routine maintenance. The commenter interpreted a much broader scope to this proposed categorical exclusion than DOE intended. Therefore, DOE incorporated the categorical exclusion as an example (along with proposed B1.2) into the categorical exclusion for routine maintenance (proposed A1.26, final B1.3, example (o)).

Another commenter suggested that exterior decontamination activities should be categorically excluded as well. Exterior decontamination is addressed in categorical exclusion B6.1, CERCLA removals/similar actions under RCRA or other authorities.

Proposed A1.37 On-site Storage of Activated Material at Existing Facility (Final B1.10)

One commenter suggested that this categorical exclusion be deleted because it allowed too broad a range of actions, given the risks of storing any radionuclides. DOE has revised this categorical exclusion in the final rule to emphasize that its scope is the routine storage of activated equipment and construction materials to allow radionuclides with short halflives (days or weeks) to decay sufficiently before reuse. The activation-produced radioisotopes are in the matrix of the material and are not likely to leak out.

Proposed A1.40 Detonation of High Explosives in Reserved Areas (Final B1.12)

One commenter objected to this categorical exclusion because, based on its vague wording, it could be interpreted to apply broadly to all high explosive detonations. DOE has revised the categorical exclusion to clarify that it applies only to the detonation or burning of failed or damaged explosives or propellants under an existing permit issued by state or local authorities.

Proposed A1.42 Routine Transportation of Nonhazardous Materials and Nonradioactive, Nonwaste Hazardous Materials (Not included in the final rule)

Proposed A1.43 Routine Transportation of Waste (Not Transuranic, not High Level) (Not Included in the final rule)

One commenter objected to the broad scope of proposed A1.42, based on concern about the transport of hazardous substances (including CERCLA-excluded petroleum and natural gas products), uncertainty regarding DOE's adoption of the Nuclear Regulatory Commission's Below Regulatory Concern level, and the lack of eligibility criteria to screen for potential impacts on public health and safety and for cumulative impacts. DOE believes that reviewing transportation for proposals separately from the proposals themselves would be inappropriate segmentation. DOE will consider the transportation impacts of proposed actions in EAs and EISs, as appropriate. As indicated in § 1021.410(d) of the final rule, DOE views classes of actions as including all activities necessary to implement a proposal within the class of actions, such as associated transportation activities. DOE has not adopted the Nuclear Regulatory Commission's Below Regulatory Concern level. DOE has revised the proposed eligibility criterion concerning statutory, regulatory, and permit requirements and, as explained above, included it as condition B.(1) in appendix B of the final rule to clearly indicate that public health and safety issues are covered. DOE also has added § 1021.410(b)(3) to address cumulative impacts.

Proposed A1.44 Temporary Shutdown/Restart of a Facility for Inventory, Routine Maintenance (Not Included in the Final Rule)

Proposed A1.46 Shutdown of an Operating Facility (Not Included in the Final Rule)

DOE now recognizes that in proposing these two categorical exclusions, it inappropriately identified suspension and resumption of operations as separate and distinct actions. These exclusions identified activities that are part of ongoing routine operations of an existing facility and thus by themselves are not subject to NEPA. The final rule has been revised to focus on the activities to be performed while operations are suspended. (See, e.g., proposed A1.26 (final B1.3), proposed A1.45 (final B1.14), and proposed B1.9 (final B2.5). See also the discussion below for proposed A1.45 (final B1.14) and proposed B1.9 (final B2.5).) Therefore, DOE has not included proposed A1.44 and A1.46 in the final rule.

One commenter, in reference to proposed A1.44, was concerned about the vagueness of the terms related to maintenance and about the potential for DOE to carry out substantial work to correct safety or environmental concerns through repeated shutdowns. The categorical exclusion for routine maintenance (proposed A1.26, final B1.3) provides many examples that describe and limit the nature and scope of these activities.

Another commenter, in reference to proposed A1.44 and A1.46, stated that it was unreasonable for DOE to predetermine that a shutdown for up to two years would not require an EA or EIS and expressed concern, in reference to proposed A1.44, that the magnitude of problems at DOE facilities can easily be underestimated. DOE agrees that it cannot predetermine the length of time that activities appropriately categorically excluded might take, and has not included a time period in those categorical exclusions that may involve a suspension and resumption of operations. DOE must determine the appropriate level of NEPA review and complete it before taking the proposed action. If a proposed action changes as a result of initial activities, DOE will complete a new NEPA review before taking further action.

One commenter, in reference to proposed A1.46, was concerned that this categorical exclusion would exempt shutdown of facilities intended primarily for environmental mitigation or improvement (e.g., a wastewater treatment plant or a renewable energy facility), and that such a shutdown could have potential for significant adverse impacts. DOE believes that temporary suspension of operation and subsequent resumption (e.g., for routine maintenance) would not have potential for significant impacts except in extraordinary circumstances. This commenter also requested clarification that permanent shutdown may require additional NEPA review if decontamination and decommissioning activities are proposed. DOE agrees and notes the lack of a categorical exclusion for facility decommissioning, as well as the inclusion of decommissioning in several of the classes of actions found in appendix D to Subpart D of the rule, which normally require an EIS.

Proposed A1.45 Temporary Shutdown/Restart of a Nuclear Reactor for Refueling (Final B81.14)

DOE has retained this categorical exclusion, but it is revised to focus on the refueling activity, while acknowledging that operations may be suspended and resumed for such activity.

Proposed A2.3 Establishment of/Improvements to Warning Systems Monitors, Evacuation Routes (Final A12, B1.3, B2.2, and B2.5)

DOE has not included this proposed categorical exclusion in the final rule because DOE believes the actions are encompassed by proposed A2.2 (final B2.2), which addresses building instrumentation, and proposed A1.22, A1.26, and B2.1 (final A12, B1.3, and B2.5, respectively), which cover emergency evacuation road designation, repair, and improvement. DOE clarified the scope of B2.2 and A12 in the final rule.

Proposed A2.4 Promotion/Maintenance of Employee Health (Final B2.3)

One commenter requested that radiation monitoring devices and fumehoods with associated collection and exhaust systems be added to the list of examples in this categorical exclusion and that a reference be made to applicable regulations. DOE has added the additional example to the categorical exclusion in the final rule (B2.3), but has not provided the requested reference to applicable regulations because there are no regulations specifically applicable to this categorical exclusion.

Proposed A3.1 Site Characterization/Environmental Monitoring (Final B3.1)

Proposed B3.1 Siting/Construction/Operation of Small-Scale Laboratory Building or Renovation of Room for Sample Analysis for Site Characterization/Environmental Monitoring (Final B3.1, B3.8, and B6.2)

In response to a comment, DOE has modified proposed A3.1 to clarify that site characterization and environmental monitoring activities for remedial investigation and feasibility studies are within the scope of the categorical exclusion.

Another commenter stated that proposed A3.1 should be limited to existing waste site cleanups and should not apply to site characterization for the construction of new facilities. DOE has not limited the categorical exclusion in this way because it believes that the environmental impacts of activities covered by this categorical exclusion are insignificant whether performed for possible restoration or construction. Site characterization may be necessary before formulating a proposal involving new construction and for which preparation of an EA or EIS is necessary, as the data may be needed for conceptual design and to evaluate impacts of construction, operation, and, as appropriate, eventual decommissioning. DOE believes that § 1021.410(b)(3), which clarifies that DOE's categorically excluded actions will not be connected to other actions with potentially significant impacts or otherwise be related to actions with cumulatively significant impacts, addresses the commenter's concern that the site characterization activities not establish a precedent for future actions with significant impacts or represent a decision in principle about a future consideration.

DOE has included the scope of activities of proposed B3.1 into proposed A3.1 (final B3.1), proposed B3.3 (final B3.8 and B6.2) and proposed B6.2 (final B6.2) to avoid inappropriate segmentation.

Proposed A3.2 Geochemical Surveys/Geological Mapping/Geophysical Investigation (Final B3.1)

DOE has not included this categorical exclusion in the final rule because DOE believes the categorical exclusion is encompassed by proposed A3.1, which is B3.1 in the final rule. In the final rule, example (a) in B3.1 was modified accordingly to clarify the scope of that categorical exclusion.

Proposed A3.3 Archeological/Cultural Resource Identification (Final B3.1)

DOE has included this proposed categorical exclusion as an example of a site characterization activity in the final rule (B3.1(j)).

Proposed A3.5 Research Related to Conservation of Fish and Wildlife Conservation (Final B3.3)

In response to a comment that categorically excluded research should not significantly reduce the study populations of non-nuisance species, DOE has narrowed this proposed categorical exclusion. In the final rule, the categorical exclusion is limited to research activities that would involve only negligible population reduction.

Another commenter asserted that this categorical exclusion was inconsistent with 40 CFR 1506.1, proposed § 1021.410, and proposed appendix C2 to subpart D. In the final rule under § 1021.410(b)(3), all categorically excluded actions must meet the criteria in 40 CFR 1506.1 (limitations on actions during NEPA process). Because the categorically excluded research activities in this class of actions might directly involve fish and wildlife resources that are not environmentally sensitive (section 1021.410(b)(2)(ii) in the proposed rule, condition B.(4) in Appendix B in the final rule), the categorical exclusion emphasizes minimization of animal mortality, population reduction, or habitat destruction regardless of whether these resources are protected by other statutes. The class of actions in proposed C2 (Protection of fish and wildlife habitat), which is final C8, and in proposed B1.8 (Protect/restore/improve fish and wildlife habitat), which is final B1.20, concern habitat modification, rather than research as in this categorical exclusion.

Proposed A3.8 Indoor Bench-Scale Research Projects/Conventional Operation (Final B3.6)

One commenter asserted that this proposed categorical exclusion might be used to exempt laboratory operations that are conducted with radioactive and hazardous materials as part of a larger development project. The commenter had specific concerns that categorically excluded research could lead to violations of National Pollutant Discharge Elimination System permits and larger programs with significant environmental impacts. DOE had proposed an eligibility criterion for categorical exclusions (section 1021.410(b)(1)(i) in the proposed rule) that the proposed actions would not threaten a violation of applicable permit requirements. In the final rule, DOE has revised this criterion to be condition B.(1), which is an integral element of all the classes of actions in appendix B. DOE has also added § 1021.410(b)(3) to this final rule to clarify that DOE's categorically excluded proposals will not involve segmentation. DOE believes that this type of laboratory work, even involving radioactive and hazardous materials, does not have potential for significant impact.

Another commenter suggested expanding the list of examples of conventional laboratory operations and adding the restriction that operations be in accordance with applicable requirements, permits, and DOE orders. This restriction was covered in DOE's proposed eligibility criteria at proposed § 1021.410(b)(1) and is in condition B.(1) in appendix B in the final rule. DOE does not believe it is necessary to augment the list of examples but has revised the categorical exclusion to explicitly state that the activities will be conducted within existing laboratory facilities. Establishing a laboratory facility is a separate action, for which DOE will prepare an EA or EIS to address, among other issues, overall wastewater treatment and pollution prevention and the impacts from discharges related to research performed therein.

Proposed A4.1 Contracts/Marketing Plans/Policies for the Short Term (Final B4.1)

Proposed A4.5 Power Marketing Services Within Normal Operating Limits (Final B4.4).

Proposed A4.8 Temporary Adjustments to River Operations (Final B4.5)

One commenter strongly objected to these categorical exclusions because of concern for cumulative impacts as well as immediate, direct effects from changes in the timing and flow of rivers. The commenter stated that marketing plans and contracts have the potential

for significant environmental effects and pointed out the ambiguity in timeframes in proposed A4.1. The same commenter thought that the use of hydropower resources to meet peak demands may tend to displace oil- and gas-fired thermal generation. Another commenter stated that proposed A4.1 should not apply when there is increased emissions from fossil-fueled powerplants or major changes in reservoir levels or streamflows.

After consideration of the comments, DOE has determined that the three proposed categorical exclusions do not individually or cumulatively have a significant effect on the human environment. Repeatedly and consistently, DOE has found no significant impacts associated with actions by the power marketing agencies that are within the existing constraints of a particular hydrosystem operation, including past decisions concerning actions that would be beyond the parameters of the proposed categorical exclusions.

DOE considers a five-year limit for categorical exclusion (proposed A4.1, final B4.1) of disposition, allocation, or acquisition of excess power appropriate because it is consistent with (1) the delineation of a "major" resource in the Northwest Power Act (that is, sections 3(12) and 6(c) of the act define resources of more than 50 average megawatts acquired for more than 5 years as "major" and impose special procedures for such acquisitions) and (2) the Bonneville Power Administration's normal multiyear planning process (promulgated, in accordance with the Pacific Northwest Coordination Agreement, to effect short-term marketing actions to optimize the system economically or short-term power acquisitions to avoid power shortages).

Excess power refers to nonfirm power or surplus firm power derived from existing resources. Proposed A4.1 (final B4.1) would not apply to transactions enabling the construction of new resources. (See the discussion of proposed C10, below.)

In response to the commenter's concern regarding the subjectivity of proposed A4.5 (final B4.4) and proposed A4.8 (final B4.5), including the use of such terms as "temporary" and "minor," DOE believes that the limitations within the final categorical exclusions, while not eliminating, will minimize the need for subjective judgment.

DOE agrees that the establishment of basic hydrosystem operating parameters is appropriately addressed through means other than categorical exclusions. (See discussion below under proposed C10.) The Bonneville Power Administration, for example, is preparing the Columbia River System Operation Review EIS to consider the balance of uses on the Columbia River.

One commenter indicated that the categorical exclusion for temporary river adjustments (proposed A4.8, final B4.5) should not be applied if the changes would reduce instream flows below minimum requirements. This categorical exclusion would not apply in this situation because such changes would exceed the existing constraints of a particular hydrosystem operation and would not be regarded as a minor change to reservoir levels or streamflows.

Proposed A4.2 Leasing of Existing Transmission Facilities (Final A7)

DOE has not included this categorical exclusion in the final rule. This categorical exclusion is unnecessary because the leasing of existing transmission facilities is encompassed by proposed A1.15, which is A7 in the final rule.

Proposed A4.6 Buffer Rights-of-Way at Existing Transmission Facilities (Not included in the final rule)

DOE has not included this categorical exclusion in the final rule. DOE recognizes that there is potential for significant impact from acquisition of rights-of-way because of possible changes in land use related to establishing buffer zones; therefore, a categorical exclusion is inappropriate. If land use in the buffer zone will not change, proposed A1.15 (A7 in the final rule) may apply to the action.

Proposed A4.7 Minor Substation Modifications/Expansions (Final B4.11)

In the final rule, DOE included the scope of this proposed categorical exclusion into the scope of proposed B4.4 (final B4.11), which concerns construction and modification of substations, to avoid segmentation.

Proposed A5.4 Removal of Oil Field Waste to Permitted Disposal Facility (Not Included in the Final Rule)

One commenter strongly objected to this categorical exclusion, stating that research conducted by EPA had indicated that there are significant environmental impacts from disposal practices used for oil field wastes. DOE reconsidered its proposal of this categorical exclusion and, because of uncertainty as to the potential for significant impacts, has not included it in the final rule.

Proposed A6.2 Umbrella Agreements for Cooperation in Energy Research and Development (Final A15)

DOE has not included phrase (b) in proposed A6.2 (that referred to categorically excluded projects and activities) in the categorical exclusion in the final rule (A15). The phrase was unnecessary because specific energy research and development projects that are categorically excluded are specified in Appendix B of the final rule.

Proposed B1.1 Siting/Construction/Operation of Support Structures (Final B1.15)

Proposed A1.27 Siting/Construction/Operation of Storage Area for Maintenance/Administrative Supplies, Equipment (Final B1.15 and B4.11)

One commenter stated that the scope of proposed B1.1 was too broad; it would essentially exempt all construction and operation of service and support buildings regardless of size, soil contamination, resuspended dust from construction, environmental and energy impacts of operation, and alternative designs and locations that could minimize impacts.

In response to the comment, DOE has narrowed the scope of proposed B1.1 in the final rule (B1.15). The siting and construction of structures covered by the categorical exclusion are limited to small-scale support buildings and structures within or contiguous to an already developed area where site utilities and roads are available. DOE has added a condition in the final rule, B.(3), that is an integral element of the classes of actions in appendix B: Construction activities that would disturb hazardous substances, pollutants, contaminants, CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases would not be categorically excluded. (See additional discussion under section III F, above.)

In addition, DOE incorporated proposed A1.27 into this categorical exclusion for support buildings and structures as an example (as noted above in the discussion of proposed A1.27) because small-scale storage areas for maintenance and administrative supplies are support facilities.

In the final rule, DOE has added the phrase "and similar support purposes" to the list of support functions for which buildings and structures may be constructed because DOE believes that siting, construction, and operation of

any small-scale support structure will not individually or cumulatively have a significant impact on the human environment and that it is appropriate to categorically exclude these activities. DOE had not intended this categorical exclusion to be limited to only those support buildings and structures for the purposes listed in the proposed rule. DOE has also added the phrase "but excluding facilities for waste storage activities" to clarify that it does not consider these to be support activities for which construction may necessarily be categorically excluded except as provided in the final rule. (See the discussion of proposed B6.4 for categorically excluded waste storage facilities.)

Proposed B1.2 Removal of Contamination, Not Decommissioning Project (Final B1.3)

Two commenters suggested that this categorical exclusion be deleted because they did not believe that the only test for deciding whether to prepare an EA or EIS is whether the action is part of a decommissioning project. One of the commenters was concerned that certain activities at the Rocky Flats Plant and at the Portsmouth and Paducah Uranium Enrichment Plants might inappropriately come under this exclusion.

DOE intended the proposed categorical exclusion to cover routine actions where intact equipment (e.g., labware) and other materials (such as gloves) that are radioactive or otherwise contaminated are removed from a facility for disposal. The comment implied a much broader scope to the categorical exclusion than DOE intended. Therefore, DOE combined the categorical exclusion with proposed A1.35 as an example under routine maintenance (B1.3(o) in the final rule).

DOE is conducting a program to remove plutonium from contaminated ducts at the Rocky Flats Plant. The current activities include routine decontamination techniques commonly used to maintain facility operations (e.g., wiping with rags, vacuuming, and stripping with latex). These limited activities are encompassed within the existing routine maintenance categorical exclusion under DOE's NEPA guidelines (52 FR 47662, December 15, 1987) and would be encompassed by the categorical exclusion for routine maintenance in this final rule (B1.3). Removal of plutonium from ducts at the Rocky Flats Plant that are more difficult to access or are impossible to clean using routine maintenance techniques may require dismantling and replacement. DOE is currently preparing an EA to evaluate these types of proposed activities for the Rocky Flats Plant. Similarly, if DOE were to propose large equipment replacement actions, such as the Cascade Improvement and Cascade Upgrading Programs at the Paducah and Portsmouth Uranium Enrichment Plants in the 1970s to which the commenter referred, those large programs would not be categorically excluded.

Proposed B1.5 Construction/Operation of Additional/Replacement Water Supply Wells (Final B1.18)

One commenter stated that the proposed categorical exclusion should be limited to those circumstances where DOE can demonstrate that a steady-state drawdown occurs (i.e., the withdrawal from the supply wells is compensated by the recharge from the surrounding area). Another commenter was concerned that although the construction and operation of a few additional water supply wells might not be a major Federal action, construction and operation of a substantial well field could be. In response to these comments, DOE has added to the categorical exclusion in the final rule the additional stipulation that new wells must be within an existing well field and that there can be no resulting long-term decline of the water table. DOE has also added "siting" to the list of activities for completeness.

Proposed B1.6 Construction/Operation of Microwave/Radio Communication Towers (Final B1.19)

In response to a comment that construction of microwave or radio communications towers in areas considered to be of great visual value could have potential for significant impacts, the categorical exclusion in the final rule has been limited to areas that are not of great visual value. In the final rule, DOE did not include the restrictive phrase concerning prejudice of future site selection decisions for substations and other facilities that was in this categorical exclusion in the proposed rule because the final rule sets forth the restriction in § 1021.410(b)(3) that categorical exclusions may not involve inappropriate segmentation.

Proposed B1.9 Restart of Facility After Categorically Excluded Safety/Environmental Improvements (Not Included in the Final Rule)

Several commenters strongly objected to this categorical exclusion. One commenter viewed it as an attempt to allow DOE to "jump-start" problem-plagued facilities and stated that facilities that have been closed for modifications (particularly safety modifications) should be subject to an EA or EIS before restart. Another commenter noted that DOE has already had one court require an EIS for restart of a nuclear reactor at the Savannah River Site, and believed that the magnitude of DOE's work at the Rocky Flats Plant is also a major Federal action with significant impacts. A third commenter stated that the categorical exclusion was overly broad.

A fourth commenter said that this categorical exclusion was one of the most troubling of all the proposed categorical exclusions, stating that it conflicts directly with DOE decisions to prepare EISs on such facilities as the Savannah River reactors, the N Reactor, and the PUREX plant at Hanford and with various court decisions. The commenter stated that the effects of both accidental and routine releases from nuclear reactors or chemical processing plants are both highly controversial and involve uncertain risks (factors highlighted by the CEQ regulations as bearing on significance). The commenter asserted that the limitation in the proposed categorical exclusion (that restart would only be categorically excluded after categorically excluded improvements) was meaningless because virtually any improvement to a facility could fit into one of the other proposed categorical exclusions. This commenter noted the elaborate and complex standards and practices for the restart of reactors and chemical processing plants and that these warrant at least an EA. The commenter stated that DOE must eliminate this categorical exclusion and adopt a regulation requiring NEPA analysis of a reactor or chemical processing plant that has been shut down for safety/environmental modifications.

DOE has not included this categorical exclusion in the final rule. DOE recognizes that it inappropriately focused on the resumption of operations rather than the proposed action in proposing this categorical exclusion. DOE has not established a categorical exclusion for resumption of operations after shutdown for safety or environmental improvements, because DOE believes such shutdown is part of routine, ongoing operations.

Proposed B2.1 Improvement of a Facility, Replacement/Upgrade of Facility Components (Final B2.5)

One commenter stated that this categorical exclusion was much too broad; many DOE facilities require significant improvements to even

approach current design and operating parameters. Another commenter, referring to this categorical exclusion as "frightfully wide open," asserted that it could cover major initiatives aimed at rebuilding a nuclear reactor. This commenter referred to the CEQ regulations, which state that a significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial. The commenter stated that DOE must substantially narrow this categorical exclusion or eliminate it altogether. Another commenter asserted that given the age and condition of some DOE facilities, these actions have potential for significant impact. The commenter further stated that DOE cannot predetermine the degree of impacts because of the absence of current, adequate NEPA documentation.

DOE has narrowed the scope of this categorical exclusion in the final rule to emphasize that the activities cannot result in a substantial change in function of a facility and that the categorical exclusion does not apply to rebuilding or modifying substantial portions of a facility. These modifications, along with § 1021.410(b)(3) in the final rule, which addresses segmentation, should ensure that improvements with significant impacts (beneficial or adverse) are not categorically excluded. The categorical exclusion was also modified to acknowledge that operations may be suspended while the action takes place and then be resumed. In accordance with the CEQ regulations, DOE has procedures (section 1021.410(b)(2) in the final rule) for review of individual proposals to determine whether there are extraordinary circumstances that would indicate that a categorical exclusion is not appropriate.

DOE has added an example to this categorical exclusion for an environmental improvement (removal and replacement of underground storage tanks); DOE proposed the example as part of A1.26 (example (n)) but believes it is more appropriately considered as an upgrade. (See the discussion under proposed A1.26.)

Proposed B3.1 Siting/Construction/Operation of Small-Scale Laboratory Building or Renovation of Room for Sample Analysis for Site Characterization/Environmental Monitoring (Final B3.1, B3.8, and B6.2)

Proposed B3.3 Outdoor Ecological/Environmental Research Activities (Final B3.8 and B6.2)

In the final rule, DOE has incorporated the scope of activities in proposed B3.1 (construction and renovation activities related to sample analysis) into the scope of proposed A3.1 (final B3.1) (discussed above under proposed A3.1), proposed B3.3 (final B3.8), and proposed B6.2 (final B6.2) to avoid inappropriate segmentation.

DOE has narrowed the scope of proposed B3.3 in the final rule (final B3.8) to outdoor ecological and other environmental research activities, none of which could result in any permanent change to the ecosystem. Some environmental restoration experiments concerned with waste, originally in the scope of this categorical exclusion, are now included in the scope of proposed B6.2 (final B6.2) where they are limited by size (further discussion below under proposed B6.2). The restriction concerning release or movement of hazardous and other substances proposed as part of proposed B3.3 was not included in these categorical exclusions in the final rule because the condition that proposals not disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products such that there would be uncontrolled or unpermitted releases is now an integral element of the classes of actions in appendix B under condition B.(3). (See additional discussion under section III F, above.)

Proposed B3.5 Research and Development Activities/Small Scale Testing at Existing Facility, Preceding Demonstration (Final B3.10)

One commenter asserted that this categorical exclusion, because of the inadequacy of proposed eligibility criteria, would exempt activities that have the potential to establish a precedent for future actions with significant effects or that represent a decision in principle about a future consideration. In response to this comment (and similar comments on other categorical exclusions), DOE has added section 1021.410(b)(3) to the final rule that clarifies that the Department will not categorically exclude a proposal if it involves segmentation.

The commenter noted that DOE has prepared EAs for research and development projects involving nonradioactive and nonhazardous materials, and was concerned that this categorical exclusion represented a step backward for DOE. DOE has modified this categorical exclusion in the final rule (B3.10) to clarify its intent (i.e., to include small-scale research and development projects and small-scale pilot projects) and has also narrowed the scope of the categorical exclusion to projects generally less than two years in duration.

The commenter misinterpreted the example for research to improve the capability or efficiency of existing accelerators as applying to accelerator upgrades, for which DOE would prepare an EA or EIS. The commenter also requested a change in the example concerning accelerator beams with insufficient energy to produce reactions. DOE believes the broad examples were misleading and has deleted them.

Proposed B4.1 New Electricity Transmission Agreements, System Operation Within Normal Operation Limits (Final B4.8)

DOE has modified this categorical exclusion in the final rule to clarify that the use of a transmission facility of one system to transfer power of and for another system is the only scope for categorically excluded new or modified transmission agreements. DOE deleted the phrase referring to normal operating limits because it was not necessary, and comments on other categorical exclusions (proposed A4.5 and A4.8) indicated its subjectivity.

Proposed B6.1 CERCLA Removals/Similar Actions Under RCRA or Other Authorities (Final B6.1)

A commenter requested that this categorical exclusion be explicitly restricted to situations involving small-scale removal operations or where there is a threat of a release. The categorical exclusion in the final rule states that DOE's categorically excluded removal actions will meet CERCLA regulatory cost and time limits (currently $2 million or 1 year from the time activities begin on site) or will satisfy one of two regulatory exemptions. Neither CERCLA nor EPA has set cost or time limits for exempted actions.

The same commenter also recommended that DOE include a period of time (e.g., one year) within which some exposure is expected to occur to qualify for the categorical exclusion. DOE does not believe that the timing of potential exposure from a release is a measure of the significance of impacts expected from cleaning up the release. EPA's National Contingency Plan and written guidance for removal actions do not present a limitation based on the period of time within which some exposure is likely.

Two other commenters requested that DOE address in Subpart D the level of NEPA review required for final corrective or remedial actions and other typical restoration activities, such as waste packaging and repackaging, onsite waste stabilization/ treatment, and bioremediation techniques. As DOE

gains experience in remediation, DOE may propose additions to the listings in subpart D.

A commenter stated that the removal of underground storage tanks (example (c) in the proposed and final rule) should not be categorically excluded, except in the case of the threat of a release, because tank removals are typically large actions and tanks are often used to store petroleum and its byproducts, which are exempted from RCRA review. DOE believes that tank removal that meets the criteria for this categorical exclusion can be appropriately excluded. DOE believes that its phrase concerning reduction of "the likelihood of spillage, leakage, or the spread of, or direct contact with, contamination" is essentially the same as removing "the threat of a release." DOE will review individual activities to determine whether they present extraordinary circumstances such that there is potential for significant impacts on the human environment. (The commenter noted that DOE had removed "tanks" from the list of excluded containers in proposed example (b) (removal of bulk containers); DOE removed "tanks" to avoid overlap and confusion with proposed example (c), not to limit the scope of the categorical exclusion. DOE has not changed this terminology in the final rule.) In the final rule, however, DOE has included citations of applicable statutory and regulatory requirements in this example in response to a comment.

DOE has moved proposed example (p) (transportation, treatment, recovery, storage, or disposal of wastes at existing facilities) to the lead statement of the categorical exclusion to emphasize that these activities (part of any removal action) must occur at existing facilities. DOE did not include transportation in the lead statement of the categorical exclusion because the Department considers it an activity necessary to and included in the categorical exclusion (as discussed under § 1021.410(d)). A commenter was confused by a phrase in this example that concerned reducing the likelihood of human, animal, or food chain exposure, thinking that there would either be only rare opportunities for applying this categorical exclusion, or DOE would have to perform more extensive investigation of the potential exposures from its activities to qualify for the exemption. DOE did not include this confusing and unnecessary phrase in the lead statement of the categorical exclusion in the final rule.

Proposed B6.2 Siting/Construction/Operation of Temporary Pilot-Scale Waste Collection/Treatment Facilities (Final B6.2)

DOE has modified this categorical exclusion in the final rule to include other temporary pilot-scale waste management systems (i.e., stabilization and containment) that were proposed in B3.3 of the proposed rule. This categorical exclusion in the final rule has a one acre size restriction, rather than five acres, as in proposed B3.3. DOE has also modified this categorical exclusion in the final rule to include the scope of activities in proposed B3.1 (construction or renovation of facilities for sample analysis) to avoid inappropriate segmentation. (Also see the discussion under proposed B3.3.)

Proposed B6.3 Improvements to Environmental Control Systems (Final B6.3)

In response to a comment requesting clarification on whether work on outdoor systems was within the scope of the categorical exclusion, DOE has rewritten this categorical exclusion in the final rule for clarity and in so doing included a reference to systems "of" an existing building or structure rather than "within" a building or structure. Categorically excluded activities could include work on piping or duct work leading to a building or structure, but could not include new construction.

Proposed B6.4 Siting/Construction/Operation of Waste Storage Facility (not Transuranic, High Level) (Final C16, B6.4, B6.5 and B6.6)

Proposed B6.5 Modification (not expansion) of Existing Transuranic Waste Storage Facility (Final B6.6)

A commenter was concerned about the potential for long-term storage of waste under proposed B6.4. Two other commenters believed that there was no reasonable basis for DOE's distinction between waste storage facilities for transuranic (TRU) and non-TRU waste (other than high-level waste or spent nuclear fuel). One commenter noted that there are very likely certain hazardous or non-TRU mixed wastes that pose equal or greater dangers than TRU or TRU-mixed wastes. The commenter urged DOE to eliminate this unprincipled distinction and to prepare an EA for storage facilities for all the wastes listed in proposed B6.4 as well as for TRU wastes.

In response to these comments and the general comments that appendix B categorical exclusions are too broad, DOE has included in the final rule two categorical exclusions for waste storage and staging activities that are smaller in scope and that represent subsets of the originally proposed categorical exclusion (i.e., 90-day hazardous waste storage (final B6.4) and characterizing and sorting previously packaged waste or overpacking waste (final B6.5)).

DOE believes that it is appropriate to analyze the environmental impacts from waste handling (mainly worker exposure), the deterioration of containers during extended storage (which could result in environmental releases), and the establishment of and increases in storage capacity (because of, for example, general radiation from a given volume of waste or the potential for release of hazardous fumes, including explosive fumes, especially if there are accidental releases). Therefore, DOE has categorically excluded only those activities that do not involve direct handling of waste (packaging waste or opening waste containers) or establishing or increasing storage capacity, unless the storage time is quite limited (e.g., 90 days) or the volume of waste generated is very small (e.g., less than 1,000 kilograms in a calendar month).

DOE has modified proposed B6.5 (final B6.6) to address modification of existing structures for storage of wastes proposed to be categorically excluded in proposed B6.4. DOE also has modified proposed C10 (final C7) to address new structures for storage of wastes that had been proposed to be categorically excluded in proposed B6.4.

DOE did not follow another commenter's suggestion that the definition of hazardous waste also refer to applicable state and local regulations because DOE's citation is to a definition or designation of hazardous waste, not to regulations applicable to handling the waste.

Proposed B6.7 Relocation/Demolition/Disposal of Buildings (Final B1.22)

In the final rule, DOE has moved this categorical exclusion to section B1.22 (categorical exclusions applicable to facility operation). This was in response to a request to clarify whether the scope of the categorical exclusion was limited to environmental restoration and waste management, although DOE's division of appendix B is only for purposes of organization and is not limiting. DOE narrowed the scope of the categorical exclusion in the final rule by restricting the relocation of buildings to an already developed area where site utilities and roads are available.

Proposed B7.2 Retransfers of source, special nuclear, and byproduct materials (Not Included in the Final Rule)

DOE has not included proposed B7.2 in the final rule. As proposed the categorical exclusion did not involve transport within the United States or its territorial seas, and therefore these NEPA regulations would not apply to the retransfer actions. DOE actions having environmental effects outside the United States, its territories or possessions are subject to, as set forth in § 1021.102 of the final rule, Executive Order 12114, DOE's guidelines implementing that Order, and Department of State procedures.

Appendix C to Subpart D—Classes of Actions That Normally Require EAs but Not Necessarily EISs

Appendix D to Subpart D—Classes of Actions That Normally Require EISs

A commenter suggested that an item be added relating to research on the conservation of endangered, threatened, or proposed to be listed species. Another commenter requested that DOE consider including chemical, thermal, and other types of process pilot plants in appendix C.

DOE had listed only those classes of actions that are typical classes of actions for DOE (i.e., DOE proposes the type of action frequently) and for which DOE has enough experience to be reasonably confident that an EA will normally be the required level of NEPA review. Therefore, DOE has not added typical classes of actions to appendix C for research on endangered species or for additional process pilot plants.

Substantial changes to proposed Appendix C involved three classes of actions, two of which were modified in response to comments (C10 and C14) and one of which was not included in the final rule (C15) (discussed above under proposed B6.4 and below under proposed C10 and C15). Other minor changes were made in response to comments (discussed below under proposed C8 and C9) or for clarity.

Substantial changes to proposed appendix D involved two classes of action, one of which was not included in the final rule (discussed below under proposed D11) and one of which is new (in response to comments, as discussed below under proposed C10).

C8 Implementation of System-wide vegetation management program (Power Marketing Administrations) (Final C5).

C9 Implementation of System-wide Erosion control program (Power Marketing Administrations) (Final C6).

In response to a commenter's request, DOE clarified that the term "system-wide" in these classes of actions in the final rule refers to a program of general application regarding all the facilities of a power marketing administration.

C10 Long-term allocation of power (Final C7 and D7).

One commenter believes that long-term (five years or longer) power marketing contracts, policies, marketing plans, or allocation plans should normally be subject to review in an EIS. The commenter noted that two courts that have addressed this issue have determined that EISs were indeed necessary before implementing long-term marketing plans for major river basins. The commenter noted wide-ranging effects, from direct riverine effects (resulting from peak power generation to meet capacity commitments) to indirect effects on air quality and greenhouse gas emissions (that may result from Federal hydropower displacement of different forms of thermal power generation). This commenter added that, because Federal hydropower is generally inexpensive, its availability can reduce incentives for energy conservation. The commenter noted that Federal hydropower dams are some of the largest sources of hydropower generation in the country, contributing substantially to the overall mix of power generation in some regions, and that the long-term marketing plans for these facilities are usually developed on a comprehensive basis for many facilities in an entire river basin.

In response to this comment and comments on proposed A4.1, DOE has added conditions to the various power marketing agreements (i.e., contracts, policies, marketing plans, or allocation plans) to distinguish those that would normally require EAs but not necessarily EISs (final C7) from those that would normally require EISs, and has added a class of actions that normally requires an EIS (final D7). DOE normally will prepare an EIS for long-term (five years or longer) contracts, policies, marketing plans, or allocation plans when the DOE proposal involves adding a major new generation resource or service to a major new load or causes major changes in the operating parameters of power generation resources; otherwise, DOE normally will prepare an EA.

DOE does not consider power marketing actions with durations of five years or longer appropriate for a categorical exclusion because such actions have a duration exceeding the Bonneville Power Administration's normal multiyear planning process (promulgated in accordance with the Pacific Northwest Coordination Agreement), and, in the case of resource acquisitions, they would be inconsistent with the delineation of a "major" resource in the Northwest Power Act (that is, sections 3(12) and 6(c) of the act define resources of more than 50 megawatts acquired for more than 5 years as "major" and impose special procedures for such acquisitions). The Northwest Power Act also contains a size limit (50 average megawatts) above which a resource acquisition would be considered "major" if acquired for more than five years. This size limit is what DOE determined should differentiate between an EA and EIS relative to resource acquisitions.

C15 Siting/construction/operation of waste disposal facility in contaminated area (not TRU or high-level waste) (Not included in the final rule).

D11 Siting/construction/expansion of waste disposal facility in uncontaminated area (not transuranic or high-level waste) (Not included in the final rule).

Four commenters did not understand how DOE distinguished between EA and EIS levels of review on the basis of the presence or absence of previous contamination. One commenter pointed out that a disposal facility located in a contaminated area may not only add to existing contamination but could actually exacerbate its spread through physical means or its toxicity through synergistic chemical reactions. This commenter noted that impacts from the actual construction of a disposal site in a contaminated area are far more likely to be significant than at an uncontaminated site. This commenter urged DOE to include all siting, construction, and operation of waste disposal sites in appendix D.

Another commenter stated that to proceed as suggested by DOE's proposed rule provides an unwarranted "credit" for prior DOE environmental degradation and does not permit a true evaluation of significant environmental impacts and alternatives of the proposed action. Another commenter believed that nonhazardous solid waste disposal should be a class of action normally requiring an EA but not necessarily an EIS.

DOE has withdrawn the proposed listings and will determine the level of NEPA review required (EA or EIS level) on a case-by-case basis. DOE recognizes that there are many action- and site-specific circumstances that raise questions about the reasonableness of general listings at this time.

IV. Revocation of Existing Guidelines and Replacement of Regulations

On the effective date of this rule, May 26, 1992, DOE revokes the existing DOE NEPA Guidelines and revises the existing regulations at 10 CFR part 1021 by striking the current text and replacing it with this rule.

V. Environmental Review

Section D of the DOE NEPA Guidelines categorically excludes "promulgation of rules and regulations which are clarifying in nature, or which do not substantially change the effect of the regulations being amended." This rule establishes and clarifies procedures for considering the environmental effects of DOE actions within its decisionmaking process, thereby enhancing compliance with the letter and spirit of NEPA, and therefore fits within this categorical exclusion. DOE has determined that promulgation of this rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA. Consequently, neither an EIS nor an EA is required for this rule. DOE will continue to examine individual actions to determine the appropriate level of NEPA review.

VI. Review Under Executive Order 12291

This rule has been reviewed in accordance with Executive Order 12291, which directs that all regulations achieve their intended goals without imposing unnecessary burdens on the economy, individuals, public or private organizations, or state and local governments. The Executive Order also requires that a regulatory impact analysis be prepared for a "major rule." The Executive Order defines "major rule" as any regulation that is likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, and local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, or innovation or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule amends and codifies already existing policies and procedures for compliance with NEPA. The rule contains no substantive changes in the requirements imposed on applicants for a DOE license, financial assistance, permit, or other similar actions, which are the areas where one might anticipate an economic effect. Therefore, DOE has determined that the incremental effect of today's rule will not have the magnitude of effects on the economy to bring this rule within the definition of a "major rule."

Pursuant to the Executive Order, this rule was submitted to the Office of Management and Budget for regulatory review.

VII. Review Under Executive Order 12612

Executive Order 12612 requires that rules be reviewed for Federalism effects on the institutional interest of states and local governments. If the effects are sufficiently substantial, preparation of a Federalism assessment is required to assist senior policymakers. The rulemaking to revoke DOE's NEPA Guidelines and revise 10 CFR part 1021 will not have any substantial direct effects on state and local governments within the meaning of the Executive Order. It will, however, allow states the opportunity to play a more significant role in DOE's NEPA process. This final rule will affect Federal NEPA compliance procedures, which are not subject to state regulation.

VIII. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub.L. 96-345 (5 U.S.C. 601-612), requires that an agency prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. The requirement (which appears in section 603 of the act) does not apply if the agency "certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." This rule modifies existing policies and procedural requirements for DOE compliance with NEPA. It makes no substantive changes to requirements imposed on applicants for DOE licenses, permits, financial assistance, and similar actions as related to NEPA compliance. Therefore, DOE certifies that this rule will not have a "significant economic impact on a substantial number of small entities."

IX. List of Subjects in 10 CFR Part 1021

Environmental assessment, environmental impact assessment, National Environmental Policy Act.

Issued in Washington, DC, April 16, 1992.

Paul L. Ziemer,

Assistant Secretary, Environment, Safety and Health.

For reasons set out in the preamble, 10 CFR part 1021 is revised to read as set forth below:

PART 1021—NATIONAL ENVIRONMENTAL POLICY ACT IMPLEMENTING PROCEDURES

Subpart A—General

Sec.

1021.100 Purpose.
1021.101 Policy.
1021.102 Applicability.
1021.103 Adoption of CEQ NEPA regulations.
1021.104 Definitions.
1021.105 Oversight of Agency NEPA activities.

Subpart B—DOE Decisionmaking

1021.200 DOE planning.
1021.210 DOE decisionmaking.
1021.211 Interim actions: Limitations on actions during the NEPA process.
1021.212 Research, development, demonstration, and testing.
1021.213 Rulemaking.
1021.214 Adjudicatory proceedings.
1021.215 Applicant process.
1021.216 Procurement, financial assistance, and joint ventures.

Subpart C—Implementing Procedures

1021.300 General requirements.
1021.301 Agency review and public participation.
1021.310 Environmental impact statements.
1021.311 Notice of intent and scoping.
1021.312 EIS implementation plan.
1021.313 Public review of environmental impact statements.
1021.314 Supplemental environmental impact statements.
1021.315 Records of decision.
1021.320 Environmental assessments.
1021.321 Requirements for environmental assessments.
1021.322 Findings of no significant impact.
1021.330 Programmatic (including site-wide) NEPA documents.
1021.331 Mitigation action plans.
1021.340 Classified, confidential, and otherwise exempt information.
1021.341 Coordination with other environmental review requirements.
1021.342 Interagency cooperation.
1021.343 Variances.

Subpart D—Typical Classes of Actions

1021.400 Level of NEPA review.
1021.410 Application of categorical exclusions (classes of actions that normally do not require EAs or EISs).

Appendix A to Subpart D—Categorical Exclusions Applicable to General Agency Actions

Appendix B to Subpart D—Categorical Exclusions Applicable to Specific Agency Actions

Appendix C to Subpart D—Classes of Actions that Normally Require EAs but not Necessarily EISs

Appendix D to Subpart D—Classes of Actions that Normally Require EISs

Authority: 42 U.S.C. 7254; 42 U.S.C. 4321 *et seq.*

Subpart A—General

§ 1021.100 Purpose.

The purpose of this part is to establish procedures that the Department of Energy (DOE) shall use to comply with section 102(2) of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4332(2)) and the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508). This part supplements, and is to be used in conjunction with, the CEQ Regulations.

§ 1021.101 Policy.

It is DOE's policy to follow the letter and spirit of NEPA; comply fully with the CEQ Regulations; and apply the NEPA review process early in the planning stages for DOE proposals.

§ 1021.102 Applicability.

(a) This part applies to all organizational elements of DOE except the Federal Energy Regulatory Commission.

(b) This part applies to any DOE action affecting the quality of the environment of the United States, its territories or possessions. DOE actions having environmental effects outside the United States, its territories or possessions are subject to the provisions of Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions" (3 CFR, 1979 Comp., p. 356; 44 FR 1957, January 4, 1979), DOE guidelines implementing that Executive Order (46 FR 1007, January 5, 1981), and the Department of State's "Unified Procedures Applicable to Major Federal Actions Relating to Nuclear Activities Subject to Executive Order 12114" (44 FR 65560, November 13, 1979).

§ 1021.103 Adoption of CEQ NEPA Regulations.

DOE adopts the regulations for implementing NEPA published by CEQ at 40 CFR parts 1500 through 1508.

§ 1021.104 Definitions.

(a) The definitions set forth in 40 CFR part 1508 are referenced and used in this part.

(b) In addition to the terms defined in 40 CFR part 1508, the following definitions apply to this part:

Action means a project, program, plan, or policy, as discussed at 40 CFR 1508.18, that is subject to DOE's control and responsibility. Not included within this definition are purely ministerial actions with regard to which DOE has no discretion. For example, ministerial actions to implement congressionally mandated funding for actions not proposed by DOE and as to which DOE has no discretion (i.e., statutorily mandated, congressionally initiated "passthroughs").

Advance NOI means a formal public notice of DOE's intent to prepare an EIS, which is published in advance of an NOI in order to facilitate public involvement in the NEPA process.

American Indian tribe means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska native entity, which is recognized as eligible for the special programs or services provided by the United States because of their status as Indians.

Categorical exclusion means a category of actions, as defined at 40 CFR 1508.4 and listed in appendix A or B to subpart D of this part, for which neither an EA nor an EIS is normally required.

CEQ means the Council on Environmental Quality as defined at 40 CFR 1508.6.

CEQ Regulations means the regulations issued by CEQ (40 CFR parts 1500–1508) to implement the procedural provisions of NEPA.

CERCLA-excluded petroleum and natural gas products means petroleum, including crude oil or any fraction thereof, that is not otherwise specifically listed or designated as a hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601.101(14)) and natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or of pipeline quality (or mixtures of natural gas and such synthetic gas).

Contaminant means a substance identified within the definition of contaminant in section 101(33) of CERCLA (42 U.S.C. 9601.101(33)).

Day means a calendar day.

DOE means the U.S. Department of Energy.

DOE proposal (or *proposal*) means a proposal, as discussed at 40 CFR 1508.23 (whether initiated by DOE, another Federal agency, or an applicant), for an action, if the proposal requires a DOE decision.

EA means an environmental assessment as defined at 40 CFR 1508.9.

EIS means an environmental impact statement as defined at 40 CFR 1508.11, or, unless this part specifically provides otherwise, a Supplemental EIS.

EIS Implementation Plan means a document that explains and supports the scope, target schedule, and approach DOE will use to prepare an EIS.

EPA means the U.S. Environmental Protection Agency.

FONSI means a Finding of No Significant Impact as defined at 40 CFR 1508.13.

Hazardous substance means a substance identified within the definition of hazardous substances in section 101(14) of CERCLA (42 U.S.C. 9601.101(14)). Radionuclides are hazardous substances through their listing under section 112 of the Clean Air Act (42 U.S.C. 7412) (40 CFR part 61, subpart H).

Host state means a state within whose boundaries DOE proposes an action at an existing facility or construction or operation of a new facility.

Host tribe means an American Indian tribe within whose tribal lands DOE proposes an action at an existing facility or construction or operation of a new facility. For purposes of this definition, "tribal lands" means the area of "Indian country," as defined in 18 U.S.C. 1151, that is under the tribe's jurisdiction. That section defines Indian country as:

(i) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(ii) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(iii) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Interim action means an action concerning a proposal that is the subject of an ongoing EIS and that DOE proposes to take before the ROD is issued, and that is permissible under 40 CFR 1506.1: Limitations on actions during the NEPA process.

Mitigation Action Plan means a document that describes the plan for implementing commitments made in a DOE EIS and its associated ROD, or, when appropriate, an EA or FONSI, to mitigate adverse environmental impacts associated with an action.

NEPA means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

NEPA document means a DOE NOI, EIS, ROD, EA, FONSI, or any other document prepared pursuant to a requirement of NEPA or the CEQ Regulations.

NEPA review means the process used to comply with section 102(2) of NEPA.

NOI means a Notice of Intent to prepare an EIS as defined at 40 CFR 1508.22.

Notice of Availability means a formal notice, published in the **Federal Register**, that announces the issuance and public availability of a draft or final EIS. The EPA Notice of Availability is the official public notification of an EIS; a DOE Notice of Availability is an optional notice used to provide information to the public.

Pollutant means a substance identified within the definition of pollutant in section 101(33) of CERCLA (42 U.S.C. 9601.101(33)).

Program means a sequence of connected or related DOE actions or projects as discussed at 40 CFR 1508.18(b)(3) and 1508.25(a).

Programmatic NEPA document means a broad-scope EIS or EA that identifies and assesses the environmental impacts of a DOE program; it may also refer to an associated NEPA document, such as an NOI, ROD, or FONSI.

Project means a specific DOE undertaking including actions approved by permit or other regulatory decision as well as Federal and federally assisted activities, which may include design, construction, and operation of an individual facility; research, development, demonstration, and testing for a process or product; funding for a facility, process, or product; or similar activities, as discussed at 40 CFR 1508.18(b)(4).

ROD means a Record of Decision as described at 40 CFR 1505.2.

Scoping means the process described at 40 CFR 1501.7; "public scoping process" refers to that portion of the scoping process where the public is invited to participate, as described at 40 CFR 1501.7 (a)(1) and (b)(4).

Site-wide NEPA document means a broad-scope EIS or EA that is programmatic in nature and identifies and assesses the individual and cumulative impacts of ongoing and reasonably foreseeable future actions at a DOE site; it may also refer to an associated NEPA document, such as an NOI, ROD, or FONSI.

Supplement Analysis means a DOE document used to determine whether a supplemental EIS should be prepared pursuant to 40 CFR 1502.9(c), or to support a decision to prepare a new EIS.

Supplemental EIS means an EIS prepared to supplement a prior EIS as provided at 40 CFR 1502.9(c).

The Secretary means the Secretary of Energy.

§ 1021.105 Oversight of Agency NEPA activities.

The Assistant Secretary for Environment, Safety and Health, or his/her designee, is responsible for overall review of DOE NEPA compliance. Further information on DOE's NEPA process and the status of individual NEPA reviews may be obtained upon request from the Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Subpart B—DOE Decisionmaking

§ 1021.200 DOE planning.

(a) DOE shall provide for adequate and timely NEPA review of DOE proposals, including those for programs, policies, projects, regulations, orders, or legislation, in accordance with 40 CFR 1501.2 and this section. In its planning for each proposal, DOE shall include adequate time and funding for proper NEPA review and for preparation of anticipated NEPA documents.

(b) DOE shall begin its NEPA review as soon as possible after the time that DOE proposes an action or is presented with a proposal.

(c) DOE shall determine the level of NEPA review required for a proposal in accordance with § 1021.300 and subpart D of this part.

(d) During the development and consideration of a DOE proposal, DOE shall review any relevant planning and decisionmaking documents, whether prepared by DOE or another agency, to determine if the proposal or any of its alternatives are considered in a prior NEPA document. If so, DOE shall consider adopting the existing document, or any pertinent part thereof, in accordance with 40 CFR 1506.3.

§ 1021.210 DOE decisionmaking.

(a) For each DOE proposal, DOE shall coordinate its NEPA review with its decisionmaking. Sections 1021.211 through 1021.214 of this part specify how DOE will coordinate its NEPA review with decision points for certain types of proposals (40 CFR 1505.1(b)).

(b) DOE shall complete its NEPA review for each DOE proposal before making a decision on the proposal (e.g., normally in advance of, and for use in reaching, a decision to proceed with detailed design), except as provided in 40 CFR 1506.1 and §§ 1021.211 and 1021.216 of this part.

(c) During the decisionmaking process for each DOE proposal, DOE shall consider the relevant NEPA documents, public and agency comments (if any) on those documents, and DOE responses to those comments, as part of its consideration of the proposal (40 CFR 1505.1(d)) and shall include such documents, comments, and responses as part of the administrative record (40 CFR 1505.1(c)).

(d) If an EIS or EA is prepared for a DOE proposal, DOE shall consider the alternatives analyzed in that EIS or EA before rendering a decision on that proposal; the decision on the proposal shall be within the range of alternatives analyzed in the EA or EIS (40 CFR 1505.1(e)).

(e) When DOE uses a broad decision (such as one on a policy or program) as a basis for a subsequent narrower decision (such as one on a project or other site-specific proposal), DOE may use tiering (40 CFR 1502.20) and incorporation of material by reference (40 CFR 1502.21) in the NEPA review for the subsequent narrower proposal.

§ 1021.211 Interim actions: Limitations on actions during the NEPA process.

While DOE is preparing an EIS that is required under § 1021.300(a) of this part, DOE shall take no action concerning the proposal that is the subject of the EIS before issuing an ROD, except as provided at 40 CFR 1506.1. Actions that are covered by, or are a part of, a DOE proposal for which an EIS is being prepared shall not be categorically excluded under subpart D of these regulations unless they qualify as interim actions under 40 CFR 1506.1.

§ 1021.212 Research, development, demonstration, and testing.

(a) This section applies to the adoption and application of programs that involve research, development, demonstration, and testing for new technologies (40 CFR 1502.4(c)(3)). Adoption of such programs might also lead to commercialization or other broad-scale implementation by DOE or another entity.

(b) For any proposed program described in paragraph (a) of this section, DOE shall begin its NEPA review (if otherwise required by this part) as soon as environmental effects can be meaningfully evaluated, and before DOE has reached the level of investment or commitment likely to determine subsequent development or restrict later alternatives, as discussed at 40 CFR 1502.4(c)(3).

(c) For subsequent phases of development and application, DOE shall prepare one or more additional NEPA documents (if otherwise required by this part).

§ 1021.213 Rulemaking.

(a) This section applies to regulations promulgated by DOE.

(b) DOE shall begin its NEPA review of a proposed rule (if otherwise required by this part) while drafting the proposed regulation, and as soon as environmental effects can be meaningfully evaluated.

(c) DOE shall include any relevant NEPA documents, public and agency comments (if any) on those documents, and DOE responses to those comments, as part of the administrative record (40 CFR 1505.1(c)).

(d) If an EIS is required, DOE will normally publish the draft EIS at the time it publishes the proposed rule (40 CFR 1502.5(d)). DOE will normally combine any public hearings required for a proposed rule with the public hearings required on the draft EIS under § 1021.313 of this part. The draft EIS need not accompany notices of inquiry or advance notices of proposed rulemaking that DOE may use to gather information during early stages of regulation development. When engaged in rulemaking for the purpose of protecting the public health and safety, DOE may issue the final rule simultaneously with publication of the EPA Notice of Availability of the final EIS in accordance with 40 CFR 1506.10(b).

(e) If an EA is required, DOE will normally complete the EA and issue any related FONSI prior to or simultaneously with issuance of the proposed rule; however, if the EA leads to preparation of an EIS, the provisions of paragraph (d) of this section shall apply.

§ 1021.214 Adjudicatory proceedings.

(a) This section applies to DOE proposed actions that involve DOE adjudicatory proceedings, excluding judicial or administrative civil or criminal enforcement actions.

(b) DOE shall complete its NEPA review (if otherwise required by this part) before rendering any final adjudicatory decision. If an EIS is required, the final EIS will normally be completed at the time of or before final staff recommendation, in accordance with 40 CFR 1502.5(c).

(c) DOE shall include any relevant NEPA documents, public and agency comments (if any) on those documents, and DOE responses to those comments, as part of the administrative record (40 CFR 1505.1(c)).

§ 1021.215 Applicant process.

(a) This section applies to actions that involve application to DOE for a permit, license, exemption or allocation, or other similar actions, unless the action is categorically excluded from preparation of an EA or EIS under subpart D of this part.

(b) The applicant shall:

(1) Consult with DOE as early as possible in the planning process to obtain guidance with respect to the appropriate level and scope of any studies or environmental information that DOE may require to be submitted as part of, or in support of, the application;

(2) Conduct studies that DOE deems necessary and appropriate to determine the environmental impacts of the proposed action;

(3) Consult with appropriate Federal, state, regional and local agencies, American Indian tribes and other potentially interested parties during the preliminary planning stages of the proposed action to identify environmental factors and permitting requirements;

(4) Notify DOE as early as possible of other Federal, state, regional, local or American Indian tribal actions required for project completion to allow DOE to coordinate the Federal environmental review, and fulfill the requirements of 40 CFR 1506.2 regarding elimination of duplication with state and local procedures, as appropriate;

(5) Notify DOE of private entities and organizations interested in the proposed undertaking, in order that DOE can consult, as appropriate, with these parties in accordance with 40 CFR 1501.2(d)(2); and

(6) Notify DOE if, before DOE completes the environmental review, the applicant plans to take an action that is within DOE's jurisdiction that may have an adverse environmental impact or limit the choice of alternatives. If DOE determines that the action would have an adverse environmental impact or would limit the choice of reasonable alternatives under 40 CFR 1506.1(a), DOE will promptly notify the applicant that DOE will take appropriate action to ensure that the objectives and procedures of NEPA are achieved in accordance with 40 CFR 1506.1(b).

(c) For major categories of DOE actions involving a large number of applicants, DOE may prepare and make available generic guidance describing the recommended level and scope of environmental information that applicants should provide.

(d) DOE shall begin its NEPA review (if otherwise required by this part) as soon as possible after receiving an application described in paragraph (a) of this section, and shall independently evaluate and verify the accuracy of information received from an applicant in accordance with 40 CFR 1506.5(a). At DOE's option, an applicant may prepare an EA in accordance with 40 CFR 1506.5(b). If an EIS is prepared, the EIS shall be prepared by DOE or by a contractor that is selected by DOE and that may be funded by the applicant, in accordance with 40 CFR 1506.5(c). The contractor shall provide a disclosure statement in accordance with 40 CFR 1506.5(c), as discussed in § 1021.312(b)(4) of this part. DOE shall complete any NEPA documents (or evaluation of any EA prepared by the applicant) before rendering a final decision on the application and shall consider the NEPA document in reaching its decision, as provided in § 1021.210 of this part.

§ 1021.216 Procurement, Financial Assistance, and Joint Ventures.

(a) This section applies to DOE competitive and limited-source procurements, to awards of financial assistance by a competitive process, and to joint ventures entered into as a result of competitive solicitations, unless the action is categorically excluded from preparation of an EA or EIS under Subpart D of this part. Paragraphs (b), (c), and (i) of this section apply as well to DOE sole-source procurements of sites, systems, or processes, to noncompetitive awards of financial assistance, and to sole-source joint ventures, unless the action is categorically excluded from preparation of an EA or EIS under Subpart D of this part.

(b) When relevant in DOE's judgment, DOE shall require that offeror's submit environmental data and analyses as a discrete part of the offeror's proposal. DOE shall specify in its solicitation document the type of information and level of detail for environmental data and analyses so required. The data will be limited to those reasonably available to offerors.

(c) DOE shall independently evaluate and verify the accuracy of environmental data and analyses submitted by offerors.

(d) For offers in the competitive range, DOE shall prepare and consider an environmental critique before the selection.

(e) The environmental critique will be subject to the confidentiality requirements of the procurement process.

(f) The environmental critique will evaluate the environmental data and analyses submitted by offerors; it may also evaluate supplemental information developed by DOE as necessary for a reasoned decision.

(g) The environmental critique will focus on environmental issues that are

pertinent to a decision on proposals and will include:

(1) A brief discussion of the purpose of the procurement and each offer, including any site, system, or process variations among the offers having environmental implications;

(2) A discussion of the salient characteristics of each offeror's proposed site, system, or process as well as alternative sites, systems, or processes;

(3) A brief comparative evaluation of the potential environmental impacts of the offers, which will address direct and indirect effects, short-term and long-term effects, proposed mitigation measures, adverse effects that cannot be avoided, areas where important environmental information is incomplete and unavailable, unresolved environmental issues and practicable mitigating measures not included in the offeror's proposal; and

(4) To the extent known for each offer, a list of Federal, Tribal, state, and local government permits, licenses, and approvals that must be obtained.

(h) DOE shall prepare a publicly available environmental synopsis, based on the environmental critique, to document the consideration given to environmental factors and to record that the relevant environmental consequences of reasonable alternatives have been evaluated in the selection process. The synopsis will not contain business, confidential, trade secret or other information that DOE otherwise would not disclose pursuant to 18 U.S.C. 1905, the confidentiality requirements of the competitive procurement process, 5 U.S.C. 552(b) and 41 U.S.C. 423. To assure compliance with this requirement, the synopsis will not contain data or other information that may in any way reveal the identity of offerors. After a selection has been made, the environmental synopsis shall be filed with EPA, shall be made publicly available, and shall be incorporated in any NEPA document prepared under paragraph (i) of this section.

(i) If an EA or EIS is required, DOE shall prepare, consider and publish the EA or EIS in conformance with the CEQ Regulations and other provisions of this part before taking any action pursuant to the contract or award of financial assistance (except as provided at 40 CFR 1506.1 and § 1021.211 of this part). If the NEPA process is not completed before the award of the contract, financial assistance, or joint venture, then the contract, financial assistance, or joint venture shall be contingent on completion of the NEPA process (except as provided at 40 CFR 1506.1 and § 1021.211 of this part). DOE shall phase subsequent contract work to allow the NEPA review process to be completed in advance of a go/no-go decision.

Subpart C—Implementing Procedures

§ 1021.300 General requirements.

(a) DOE shall determine, under the procedures in the CEQ Regulations and this part, whether any DOE proposal:

(1) Requires preparation of an EIS;

(2) Requires preparation of an EA; or

(3) Is categorically excluded from preparation of either an EIS or an EA.

DOE shall prepare any pertinent documents as required by NEPA, the CEQ Regulations, or this part.

(b) Notwithstanding any other provision of these regulations, DOE may prepare a NEPA document for any DOE action at any time in order to further the purposes of NEPA. This may be done to analyze the consequences of ongoing activities, support DOE planning, assess the need for mitigation, fully disclose the potential environmental consequences of DOE actions, or for any other reason. Documents prepared under this paragraph shall be prepared in the same manner as DOE documents prepared under paragraph (a) of this section.

§ 1021.301 Agency review and public participation.

(a) DOE shall make its NEPA documents available to other Federal agencies, states, local governments, American Indian tribes, interested groups, and the general public, in accordance with 40 CFR 1506.6, except as provided in § 1021.340 of this part.

(b) Wherever feasible, DOE NEPA documents shall explain technical, scientific, or military terms or measurements using terms familiar to the general public, in accordance with 40 CFR 1502.8.

(c) DOE shall notify the host state and host tribe of a DOE determination to prepare an EA or EIS for a DOE proposal, and may notify any other state or American Indian tribe that, in DOE's judgment, may be affected by the proposal.

(d) DOE shall provide the host state and host tribe with an opportunity to review and comment on any DOE EA prior to DOE's approval of the EA. DOE may also provide any other state or American Indian tribe with the same opportunity if, in DOE's judgment, the state or tribe may be affected by the proposed action. At DOE's discretion, this review period shall be from 14 to 30 days. DOE shall consider all comments received from a state or tribe during the review period before approving or modifying the EA, as appropriate. If all states and tribes afforded this opportunity for preapproval review waive such opportunity, or provide a response before the end of the comment period, DOE may proceed to approve or take other appropriate action on the EA before the end of the review period.

(e) Paragraphs (c) and (d) of this section shall not apply to power marketing actions, such as rate-setting, in which a state or American Indian tribe is a customer, or to any other circumstances where DOE determines that such advance information could create a conflict of interest.

§ 1021.310 Environmental impact statements.

DOE shall prepare and circulate EISs and related RODs in accordance with the requirements of the CEQ Regulations, as supplemented by this subpart.

§ 1021.311 Notice of intent and scoping.

(a) DOE shall publish an NOI in the **Federal Register** in accordance with 40 CFR 1501.7 and containing the elements specified in 40 CFR 1508.22 as soon as practicable after a decision is made to prepare an EIS. However, if there will be a lengthy period of time between its decision to prepare an EIS and the time of actual preparation, DOE may defer publication of the NOI until a reasonable time before preparing the EIS, provided that DOE allows a reasonable opportunity for interested parties to participate in the EIS process. Through the NOI, DOE shall invite comments and suggestions on the scope of the EIS. DOE shall disseminate the NOI in accordance with 40 CFR 1506.6.

(b) If there will be a lengthy delay between the time DOE has decided to prepare an EIS and the beginning of the public scoping process, DOE may publish an Advance NOI in the **Federal Register** to provide an early opportunity to inform interested parties of the pending EIS or to solicit early public comments. This Advance NOI does not serve as a substitute for the NOI provided for in paragraph (a) of this section.

(c) Publication of the NOI in the **Federal Register** shall begin the public scoping process. The public scoping process for a DOE EIS shall allow a minimum of 30 days for the receipt of public comments.

(d) Except as provided in paragraph (g) of this section, DOE shall hold at least one public scoping meeting as part of the public scoping process for a DOE EIS. DOE shall announce the location, date, and time of public scoping meetings in the NOI or by other

appropriate means, such as additional notices in the **Federal Register**, news releases to the local media, or letters to affected parties. Public scoping meetings shall not be held until at least 15 days after public notification. Should DOE change the location, date, or time of a public scoping meeting, or schedule additional public scoping meetings, DOE shall publicize these changes in the **Federal Register** or in other ways as appropriate.

(e) In determining the scope of the EIS, DOE shall consider all comments received during the announced comment period held as part of the public scoping process. DOE may also consider comments received after the close of the announced comment period.

(f) The results of the scoping process shall be documented in the EIS Implementation Plan as provided in § 1021.312 of this part.

(g) A public scoping process is optional for DOE supplemental EISs (40 CFR 1502.9(c)(4)). If DOE initiates a public scoping process for a supplemental EIS, the provisions of paragraphs (a) through (f) of this section shall apply.

§ 1021.312 EIS implementation plan.

(a) DOE shall prepare an EIS Implementation Plan to provide guidance for the preparation of an EIS and record the results of the scoping process. DOE shall complete the EIS Implementation Plan as soon as possible after the close of the public scoping process, but in any event before issuing the draft EIS. DOE may amend the EIS Implementation Plan to incorporate changes in schedules, alternatives, or other content.

(b) The EIS Implementation Plan shall include:

(1) A statement of the planned scope and content of the EIS;

(2) The purpose and need for the proposed action;

(3) A description of the scoping process and the results (as needed to document DOE compliance with 40 CFR 1501.7), including a summary of comments received and their disposition;

(4) Target schedules;

(5) Anticipated consultation with other agencies; and

(6) A disclosure statement executed by any contractor (or subcontractor) under contract with DOE to prepare the EIS document in accordance with 40 CFR 1506.5(c).

(c) At DOE's option, the Implementation Plan may include target page limits for the EIS, planned work assignments, anticipated consultation with other organizations, or any other information to support the approach to be used in preparing the EIS.

(d) DOE shall make the EIS Implementation Plan and any formal revisions available to the public for information. DOE shall make copies available for inspection in the appropriate DOE public reading room(s) or other appropriate location(s) for a reasonable time. Copies of these documents shall also be provided upon written request.

§ 1021.313 Public review of environmental impact statements.

(a) The public review and comment period on a DOE draft EIS shall be no less than 45 days (40 CFR 1506.10(c)). The public comment period begins when EPA publishes a Notice of Availability of the document in the **Federal Register**.

(b) DOE shall hold at least one public hearing on DOE draft EISs. Such public hearings shall be announced at least 15 days in advance. The announcement shall identify the subject of the draft EIS and include the location, date, and time of the public hearings.

(c) DOE shall prepare a final EIS following the public comment period and hearings on the draft EIS. The final EIS shall respond to oral and written comments received during public review of the draft EIS, as provided at 40 CFR 1503.4. In addition to the requirements at 40 CFR 1502.9(b), a DOE final EIS shall include any Statement of Findings required by 10 CFR part 1022, "Compliance with Floodplain/Wetlands Environmental Review Requirements."

(d) DOE shall use appropriate means to publicize the availability of draft and final EISs and the time and place for public hearings on a draft EIS. The methods chosen should focus on reaching persons who may be interested in or affected by the proposal and may include the methods listed in 40 CFR 1506.6(b)(3).

§ 1021.314 Supplemental environmental impact statements.

(a) DOE shall prepare a supplemental EIS if there are substantial changes to the proposal or significant new circumstances or information relevant to environmental concerns, as discussed in 40 CFR 1502.9(c)(1).

(b) DOE may supplement a draft EIS or final EIS at any time, to further the purposes of NEPA, in accordance with 40 CFR 1502.9(c)(2).

(c) When it is unclear whether or not an EIS supplement is required, DOE shall prepare a Supplement Analysis.

(1) The Supplement Analysis shall discuss the circumstances that are pertinent to deciding whether to prepare a supplemental EIS, pursuant to 40 CFR 1502.9(c).

(2) The Supplement Analysis shall contain sufficient information for DOE to determine whether:

(i) An existing EIS should be supplemented;

(ii) A new EIS should be prepared; or

(iii) No further NEPA documentation is required.

(3) DOE shall make the determination and the related Supplement Analysis available to the public for information. Copies of the determination and Supplement Analysis shall be provided upon written request. DOE shall make copies available for inspection in the appropriate DOE public reading room(s) or other appropriate location(s) for a reasonable time.

(d) DOE shall prepare, circulate, and file a supplement to a draft or final EIS in the same manner as any other draft and final EISs, except that scoping is optional for a supplement. If DOE decides to take action on a proposal covered by a supplemental EIS, DOE shall prepare a ROD in accordance with the provisions of § 1021.315 of this part.

(e) When applicable, DOE will incorporate an EIS supplement, or the determination and supporting Supplement Analysis made under paragraph (c) of this section, into any related formal administrative record on the action that is the subject of the EIS supplement or determination (40 CFR 1502.9(c)(3)).

§ 1021.315 Records of decision.

(a) No decision may be made on a proposal covered by an EIS during a 30-day "waiting period" following completion of the final EIS, except as provided at 40 CFR 1506.1 and 1506.10(b) and § 1021.211 of this part. The 30-day period starts when the EPA Notice of Availability for the final EIS is published in the **Federal Register**.

(b) If DOE decides to take action on a proposal covered by an EIS, a ROD shall be prepared as provided at 40 CFR 1505.2 (except as provided at 40 CFR 1506.1 and § 1021.211 of this part). No action shall be taken until the decision has been made public.

(c) DOE RODs shall be published in the **Federal Register** and made available to the public as specified in 40 CFR 1506.6, except as provided in 40 CFR 1507.3(c) and § 1021.340 of this part.

(d) DOE may revise a ROD at any time, so long as the revised decision is adequately supported by an existing EIS. A revised ROD is subject to the provisions of paragraphs (b) and (c) of this section.

§ 1021.320 Environmental assessments.

DOE shall prepare and circulate EAs and related FONSIs in accordance with the requirements of the CEQ Regulations, as supplemented by this subpart.

§ 1021.321 Requirements for environmental assessments.

(a) *When to prepare an EA.* As required by 40 CFR 1501.4(b), DOE shall prepare an EA for a proposed DOE action that is described in the classes of actions listed in appendix C to subpart D of this part, and for a proposed DOE action that is not described in any of the classes of actions listed in appendices A, B, or D to subpart D, except that an EA is not required if DOE has decided to prepare an EIS. DOE may prepare an EA on any action at any time in order to assist agency planning and decisionmaking.

(b) *Purposes.* A DOE EA shall serve the purposes identified in 40 CFR 1508.9(a), which include providing sufficient evidence and analysis for determining whether to prepare an EIS or to issue a FONSI. If appropriate, a DOE EA shall also include any floodplain/wetlands assessment prepared under 10 CFR part 1022 and may include analyses needed for other environmental determinations.

(c) *Content.* A DOE EA shall comply with the requirements found at 40 CFR 1508.9. In addition to any other alternatives, DOE shall assess the no action alternative in an EA, even when the proposed action is specifically required by legislation or a court order.

§ 1021.322 Findings of no significant impact.

(a) DOE shall prepare a FONSI only if the related EA supports the finding that the proposed action will not have a significant effect on the human environment. If a required DOE EA does not support a FONSI, DOE shall prepare an EIS and issue a ROD before taking action on the proposal addressed by the EA, except as permitted under 40 CFR 1506.1 and § 1021.211 of this part.

(b) In addition to the requirements found at 40 CFR 1508.13, a DOE FONSI shall include the following:

(1) A summary of the supporting EA, including a brief description of the proposed action and alternatives considered in the EA, environmental factors considered, and projected impacts;

(2) Any commitments to mitigations that are essential to render the impacts of the proposed action not significant, beyond those mitigations that are integral elements of the proposed action, and a reference to the Mitigation Action Plan prepared under § 1021.331 of this part;

(3) Any "Statement of Findings" required by 10 CFR Part 1022, "Compliance with Floodplain/Wetlands Environmental Review Requirements";

(4) The date of issuance; and

(5) The signature of the DOE approving official.

(c) DOE shall make FONSIs available to the public as provided at 40 CFR 1501.4(e)(1) and 1506.6; DOE shall make copies available for inspection in the appropriate DOE public reading room(s) or other appropriate location(s) for a reasonable time.

(d) DOE shall issue a proposed FONSI for public review and comment before making a final determination on the FONSI if required by 40 CFR 1501.4(e)(2); DOE may issue a proposed FONSI for public review and comment in other situations as well.

(e) Upon issuance of the FONSI, DOE may proceed with the proposed action subject to any mitigation commitments expressed in the FONSI that are essential to render the impacts of the proposed action not significant.

(f) DOE may revise a FONSI at any time, so long as the revision is supported by an existing EA. A revised FONSI is subject to all provisions of paragraph (d) of this section.

§ 1021.330 Programmatic (including Site-wide) NEPA documents

(a) When required to support a DOE programmatic decision (40 CFR 1508.18(b)(3)), DOE shall prepare a programmatic EIS or EA (40 CFR 1502.4). DOE may also prepare a programmatic EIS or EA at any time to further the purposes of NEPA.

(b) A DOE programmatic NEPA document shall be prepared, issued, and circulated in accordance with the requirements for any other NEPA document, as established by the CEQ Regulations and this part.

(c) As a matter of policy when not otherwise required, DOE shall prepare site-wide EISs for certain large, multiple-facility DOE sites; DOE may prepare EISs or EAs for other sites to assess the impacts of all or selected functions at those sites.

(d) DOE shall evaluate site wide NEPA documents prepared under § 1021.330(c) at least every five years. DOE shall evaluate site-wide EISs by means of a Supplement Analysis, as provided in § 1021.314. Based on the Supplement Analysis, DOE shall determine whether the existing EIS remains adequate or whether to prepare a new site-wide EIS or supplement the existing EIS, as appropriate. The determination and supporting analysis shall be made available in the appropriate DOE public reading room(s) or in other appropriate location(s) for a reasonable time.

(e) DOE shall evaluate site-wide EAs by means of an analysis similar to the Supplement Analysis to determine whether the existing site-wide EA remains adequate, whether to prepare a new site-wide EA, revise the FONSI, or prepare a site wide EIS, as appropriate. The determination and supporting analysis shall be made available in the appropriate DOE public reading room(s) or in other appropriate location(s) for a reasonable time.

§ 1021.331 Mitigation action plans.

(a) Following completion of each EIS and its associated ROD, DOE shall prepare a Mitigation Action Plan that addresses mitigation commitments expressed in the ROD. The Mitigation Action Plan shall explain how the corresponding mitigation measures, designed to mitigate adverse environmental impacts associated with the course of action directed by the ROD, will be planned and implemented. The Mitigation Action Plan shall be prepared before DOE takes any action directed by the ROD that is the subject of a mitigation commitment.

(b) In certain circumstances, as specified in § 1021.322(b)(2), DOE shall also prepare a Mitigation Action Plan for commitments to mitigations that are essential to render the impacts of the proposed action not significant. The Mitigation Action Plan shall address all commitments to such necessary mitigations and explain how mitigation will be planned and implemented. The Mitigation Action Plan shall be prepared before the FONSI is issued and shall be referenced therein.

(c) Each Mitigation Action Plan shall be as complete as possible, commensurate with the information available regarding the course of action either directed by the ROD or the action to be covered by the FONSI, as appropriate. DOE may revise the Plan as more specific and detailed information becomes available.

(d) DOE shall make copies of the Mitigation Action Plans available for inspection in the appropriate DOE public reading room(s) or other appropriate location(s) for a reasonable time. Copies of the Mitigation Action Plans shall also be available upon written request.

§ 1021.340 Classified, confidential, and otherwise exempt information.

(a) Notwithstanding other sections of this part, DOE shall not disclose

classified, confidential, or other information that DOE otherwise would not disclose pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. 552) and 10 CFR 1004.10(b) of DOE's regulations implementing the FOIA, except as provided by 40 CFR 1506.6(f).

(b) To the fullest extent possible, DOE shall segregate any information that is exempt from disclosure requirements into an appendix to allow public review of the remainder of a NEPA document.

(c) If exempt information cannot be segregated, or if segregation would leave essentially meaningless material, DOE shall withhold the entire NEPA document from the public; however, DOE shall prepare the NEPA document, in accordance with the CEQ Regulations and this part, and use it in DOE decisionmaking.

§ 1021.341 Coordination with other environmental review requirements.

(a) In accordance with 40 CFR 1500.4(k) and (o), 1502.25, and 1506.4, DOE shall integrate the NEPA process and coordinate NEPA compliance with other environmental review requirements to the fullest extent possible.

(b) To the extent possible, DOE shall determine the applicability of other environmental requirements early in the planning process, in consultation with other agencies when necessary or appropriate, to ensure compliance and to avoid delays, and shall incorporate any relevant requirements as early in the NEPA review process as possible.

§ 1021.342 Interagency cooperation.

For DOE programs that involve another Federal agency or agencies in related decisions subject to NEPA, DOE will comply with the requirements of 40 CFR 1501.5 and 1501.6. As part of this process, DOE shall cooperate with the other agencies in developing environmental information and in determining whether a proposal requires preparation of an EIS or EA, or can be categorically excluded from preparation of either. Further, where appropriate and acceptable to the other agencies, DOE shall develop or cooperate in the development of interagency agreements to facilitate coordination and to reduce delay and duplication.

§ 1021.343 Variances.

(a) *Emergency Actions.* DOE may take an action without observing all provisions of this part or the CEQ Regulations, in accordance with 40 CFR 1506.11, in emergency situations that demand immediate action. DOE shall consult with CEQ as soon as possible regarding alternative arrangements for emergency actions having significant environmental impacts. DOE shall document, including publishing a notice in the **Federal Register**, emergency actions covered by this paragraph within 30 days after such action occurs; this documentation shall identify any adverse impacts from the actions taken, further mitigation necessary, and any NEPA documents that may be required.

(b) *Reduction of Time Periods.* On a case-by-case basis, DOE may reduce time periods established in this part that are not required by the CEQ Regulations. If DOE determines that such reduction is necessary, DOE shall publish a notice in the **Federal Register** specifying the revised time periods and the rationale for the reduction.

(c) *Other.* Any variance from the requirements of this part, other than as provided by paragraphs (a) and (b) of this section, must be soundly based on the interests of national security or the public health, safety, or welfare and must have the advance written approval of the Secretary; however, the Secretary is not authorized to waive or grant a variance from any requirement of the CEQ Regulations (except as provided for in those regulations). If the Secretary determines that a variance from the requirements of this part is within his/her authority to grant and is necessary, DOE shall publish a notice in the **Federal Register** specifying the variance granted and the reasons.

Subpart D—Typical Classes of Actions

§ 1021.400 Level of NEPA review.

(a) This subpart identifies DOE actions that normally:

(1) Do not require preparation of either an EIS or an EA (are categorically excluded from preparation of either document) (appendices A and B to this subpart D);

(2) Require preparation of an EA, but not necessarily an EIS (appendix C to this subpart D); or

(3) Require preparation of an EIS (appendix D to this subpart D).

(b) Any completed, valid NEPA review does not have to be repeated, and no completed NEPA documents need to be redone by reasons of these regulations, except as provided in § 1021.314.

(c) If a DOE proposal is encompassed within a class of actions listed in the appendices to this subpart D, DOE shall proceed with the level of NEPA review indicated for that class of actions, unless there are extraordinary circumstances related to the specific proposal that may affect the significance of the environmental effects of the proposal.

(d) If a DOE proposal is not encompassed within the classes of actions listed in the appendices to this subpart D, or if there are extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal, DOE shall either:

(1) Prepare an EA and, on the basis of that EA, determine whether to prepare an EIS or a FONSI; or

(2) Prepare an EIS and ROD.

§ 1021.410 Application of categorical exclusions (classes of actions that normally do not require EAs or EISs).

(a) The actions listed in appendices A and B to this subpart D are classes of actions that DOE has determined do not individually or cumulatively have a significant effect on the human environment (categorical exclusions).

(b) To find that a proposal is categorically excluded, DOE shall determine the following:

(1) The proposal fits within a class of actions that is listed in appendix A or B to this subpart D;

(2) There are no extraordinary circumstances related to the proposal that may affect the significance of the environmental effects of the proposal. Extraordinary circumstances are unique situations presented by specific proposals, such as scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; or unresolved conflicts concerning alternate uses of available resources within the meaning of section 102(2)(E) of NEPA; and

(3) The proposal is not "connected" (40 CFR 1508.25(a)(1)) to other actions with potentially significant impacts, is not related to other proposed actions with cumulatively significant impacts (40 CFR 1508.25(a)(2)), and is not precluded by 40 CFR 1506.1 or § 1021.211 of this part.

(c) All categorical exclusions may be applied by any organizational element of DOE. The sectional divisions in appendix B to this subpart D are solely for purposes of organization of that appendix and are not intended to be limiting.

(d) A class of actions includes activities foreseeably necessary to proposals encompassed within the class of actions (such as associated transportation activities and award of implementing grants and contracts).

Appendix A to Subpart D—Categorical Exclusions Applicable to General Agency Actions

Table of Contents

A1. Routine administrative/financial/personnel actions
A2. Contract interpretations/amendments/modifications, clarifying or administrative
A3. Certain actions by Office of Hearings and Appeals
A4. Interpretations/rulings for existing regulations
A5. Rulemaking (interpreting/amending), no change in environmental effect
A6. Rulemakings, procedural
A7. Transfer of property, use unchanged
A8. Award of contracts for technical support/management and operation/personal services
A9. Information gathering/data analysis/document preparation/dissemination
A10. Reports or recommendations on non-DOE legislation
A11. Technical advice and assistance to organizations
A12. Emergency preparedness planning
A13. Procedural Orders, Notices, and guidelines
A14. Approval of technical exchange arrangements
A15. Umbrella agreements for cooperation in energy research and development

A1 Routine actions necessary to support the normal conduct of agency business, such as administrative, financial, and personnel actions.

A2 Contract interpretations, amendments, and modifications that are clarifying or administrative in nature.

A3 Adjustments, exceptions, exemptions, appeals, and stays, modifications, or rescissions of orders issued by the Office of Hearings and Appeals.

A4 Interpretations and rulings with respect to existing regulations, or modifications or rescissions of such interpretations and rulings.

A5 Rulemaking interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended.

A6 Rulemakings that are strictly procedural, such as rulemaking (under 48 CFR part 9) establishing procedures for technical and pricing proposals and establishing contract clauses and contracting practices for the purchase of goods and services, and rulemaking (under 10 CFR part 600) establishing application and review procedures for, and administration, audit, and closeout of, grants and cooperative agreements.

A7 Transfer, lease, disposition, or acquisition of interests in property, if property use is to remain unchanged.

A8 Award of contracts for technical support services, management and operation of a government-owned facility, and personal services.

A9 Information gathering (including, but not limited to, literature surveys, inventories, audits), data analysis (including computer modelling), document preparation (such as conceptual design or feasibility studies, analytical energy supply and demand studies), and dissemination (including, but not limited to, document mailings, publication, and distribution; and classroom training and informational programs), but not including site characterization or environmental monitoring. (Also see B3.1.)

A10 Reports or recommendations on legislation or rulemaking that is not proposed by DOE.

A11 Technical advice and planning assistance to international, national, state, and local organizations.

A12 Emergency preparedness planning activities, including the designation of onsite evacuation routes.

A13 Administrative, organizational, or procedural Orders, Notices, and guidelines.

A14 Approval of technical exchange arrangements for information, data, or personnel with other countries or international organizations, including, but not limited to, assistance in identifying and analyzing another country's energy resources, needs and options.

A15 Approval of DOE participation in international "umbrella" agreements for cooperation in energy research and development activities that would not commit the U.S. to any specific projects or activities.

Appendix B to Subpart D—Categorical Exclusions Applicable to Specific Agency Actions

Table of Contents

B Conditions that are integral elements of the classes of actions in appendix B
B1 Categorical exclusions applicable to facility operation
B1.1 Rate increases less than inflation (not power marketing, but see B4.3)
B1.2 Training exercises and simulation
B1.3 Routine maintenance/custodial services for buildings, structures, infrastructures, equipment
B1.4 Installation/modification of air conditioning systems for existing equipment
B1.5 Improvements to cooling water systems within existing building, structure
B1.6 Installation/modification of retention tanks, small basins to control runoff, spills
B1.7 Acquisition/installation/operation/removal of communication systems, data processing equipment
B1.8 Modifications to screened water intake structures
B1.9 Placement of airway safety markings/painting (not lighting) of existing lines, antennas
B1.10 Routine onsite storage of activated material at existing facility
B1.11 Fencing, no adverse effect on wildlife movement/surface water flow
B1.12 Detonation/burning of failed/damaged high explosives or propellants
B1.13 Acquisition or minor relocation of access roads
B1.14 Refueling of a nuclear reactor
B1.15 Siting/construction/operation of support buildings/support structures
B1.16 Removal of asbestos from buildings
B1.17 Removal of polychlorinated biphenyl-containing items from buildings, other aboveground locations
B1.18 Siting/construction/operation of additional/replacement water supply wells
B1.19 Siting/construction/operation of microwave/radio communication towers
B1.20 Protect/restore/improve fish and wildlife habitat
B1.21 Noise abatement
B1.22 Relocation/demolition/disposal of buildings
B2 Categorical exclusions applicable to safety and health
B2.1 Modifications to enhance workplace habitability
B2.2 Installation of/improvements to building/equipment instrumentation (remote controls, emergency warning systems, monitors)
B2.3 Installation of equipment for personnel safety and health
B2.4 Equipment Qualification Programs
B2.5 Safety and environmental improvements of a facility, replacement/upgrade of facility components
B3 Categorical exclusions applicable to site characterization, monitoring, and general research
B3.1 Site characterization/environmental monitoring
B3.2 Aviation activities for survey/monitoring/security
B3.3 Research related to conservation of fish and wildlife
B3.4 Transport packaging tests for radioactive/hazardous material
B3.5 Tank car tests
B3.6 Indoor bench-scale research projects/conventional laboratory operation
B3.7 Siting/construction/operation of new infill exploratory, experimental oil/gas/geothermal wells
B3.8 Outdoor ecological/environmental research in small area
B3.9 Certain Clean Coal Technology Demonstration Program activities
B3.10 Small-scale research and development/small-scale pilot projects, at existing facility, preceding demonstration
B3.11 Outdoor tests, experiments on materials and equipment components, no source, special nuclear, or byproduct materials involved
B4 Categorical exclusions applicable to Power Marketing Administrations and to all of DOE with regard to power resources
B4.1 Contracts/marketing plans/policies for the short term
B4.2 Export of electricity over existing transmission lines
B4.3 Power marketing rate changes less than inflation
B4.4 Power marketing services within normal operating limits
B4.5 Temporary adjustments to river operations within existing operating constraints
B4.6 Additions/modifications to transmission facilities within previously developed area
B4.7 Adding/burying fiber optic cable

B4.8 New electricity transmission agreements for transfer of power
B4.9 Multiple use of DOE transmission line rights-of-way
B4.10 Dismantling and removal of transmission lines
B4.11 Construction or modification of substations
B4.12 Construction of tap lines (less than 10 miles in length), not integrating major new sources
B4.13 Minor relocations of existing transmission lines (less than 10 miles in length)
B5 Categorical exclusions applicable to conservation, fossil, and renewable energy activities
B5.1 Actions to conserve energy
B5.2 Modifications to oil/gas/geothermal pumps and piping
B5.3 Modification (not expansion)/abandonment of oil storage access/brine injection/geothermal wells, not part of site closure
B5.4 Repair/replacement of sections of pipeline within maintenance provisions
B5.5 Construction/operation of short crude oil/geothermal pipeline segments
B5.6 Oil spill cleanup operations
B5.7 Import/export natural gas, no new construction
B5.8 Import/export natural gas, new cogeneration powerplant
B5.9 Temporary exemption for electric powerplant, fuel-burning installation
B5.10 Certain permanent exemptions for electric powerplant, fuel-burning installation
B5.11 Permanent exemption for mixed natural gas and petroleum
B5.12 Permanent exemption for new peak-load powerplant
B5.13 Permanent exemption for emergency operations
B5.14 Permanent exemption for meeting scheduled equipment outages
B5.15 Permanent exemption due to lack of alternative fuel supply
B5.16 Permanent exemption for new cogeneration powerplant
B6 Categorical exclusions applicable to environmental restoration and waste management activities
B6.1 CERCLA removals/similar actions under RCRA or other authorities, meeting CERCLA cost/time limits or exemptions
B6.2 Siting/construction/operation of pilot-scale waste collection/treatment/stabilization/containment facilities
B6.3 Improvements to environmental control systems
B6.4 Siting/construction/operation/decommissioning of facility for storing packaged hazardous waste for 90 days or less
B6.5 Siting/construction/operation/decommissioning of facility for characterizing/sorting packaged waste, overpacking waste (not high-level, spent nuclear fuel)
B6.6 Modification of facility for storing, packaging, repacking waste (not high-level, spent nuclear fuel)
B6.7 Granting/denying petitions for allocation of commercial disposal capacity
B6.8 Modifications for waste minimization/reuse of materials
B7 Categorical exclusions applicable to international activities
B7.1 Emergency measures under the International Energy Program
B7.2 Import/export of special nuclear or isotopic materials

B. Conditions that are Integral Elements of the Classes of Actions in Appendix B

B. The classes of actions listed below include the following conditions as integral elements of the classes of actions. To fit within the classes of actions listed below, a proposal must be one that would not:

(1) Threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, including requirements of DOE orders;

(2) Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators and facilities for treating wastewater, surface water, and groundwater);

(3) Disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases; or

(4) Adversely affect environmentally sensitive resources. An action may be categorically excluded if, although sensitive resources are present on a site, the action would not adversely affect those resources (e.g., construction of a building with its foundation well above a sole-source aquifer or upland surface soil removal on a site that has wetlands). Environmentally sensitive resources include, but are not limited to:

(i) Property (e.g., sites, buildings, structures, objects) of historic, archeological, or architectural significance designated by Federal, state, or local governments or property eligible for listing on the National Register of Historic Places;

(ii) Federally-listed threatened or endangered species or their habitat (including critical habitat), Federally- proposed or candidate species or their habitat, or state-listed endangered or threatened species or their habitat;

(iii) Floodplains and wetlands;

(iv) Areas having a special designation such as Federally- and state-designated wilderness areas, national parks, national natural landmarks, wild and scenic rivers, state and Federal wildlife refuges, and marine sanctuaries;

(v) Prime agricultural lands;

(vi) Special sources of water (such as sole-source aquifers, wellhead protection areas, and other water sources that are vital in a region); and

(vii) Tundra, coral reefs, or rain forests.

B1. *Categorical Exclusions Applicable to Facility Operation*

B1.1 Rate increases for products or services marketed by parts of DOE other than Power Marketing Administrations and approval of rate increases for non-DOE entities that do not exceed the change in the overall price level in the economy (inflation), as measured by the Gross National Product (GNP) fixed weight price index published by the Department of Commerce, during the period since the last rate increase. (Also see B4.3.)

B1.2 Training exercises and simulations (including, but not limited to, firing-range training, emergency response training, fire fighter and rescue training, and spill cleanup training).

B1.3 Routine maintenance activities and custodial services for buildings, structures, infrastructures (e.g., roads), and equipment, during which operations may be suspended and resumed. Custodial services are activities to preserve facility appearance, working conditions, and sanitation, such as cleaning, window washing, lawn mowing, trash collection, painting, and snow removal. Routine maintenance activities, corrective (that is, repair), preventive, and predictive (as defined in DOE Order 4330.4, "Maintenance Management"), are required to maintain and preserve buildings, structures, infrastructures, and equipment in a condition suitable for a facility to be used for its designated purpose. Routine maintenance may result in replacement to the extent that the replacement is in kind and is not a substantial upgrade or improvement. Routine maintenance does not include replacement of a major component that significantly extends the originally intended useful life of a facility (for example, it does not include the replacement of a reactor vessel near the end of its useful life). Routine maintenance activities include, but are not limited to:

(a) Repair of facility equipment, such as lathes, mills, pumps, and presses;

(b) Door and window repair or replacement;

(c) Wall, ceiling, or floor repair;

(d) Reroofing;

(e) Plumbing, electrical utility, and telephone service repair;

(f) Routine replacement of high-efficiency particulate air filters;

(g) Inspection and/or treatment of currently installed utility poles;

(h) Repair of road embankments;

(i) Repair or replacement of fire protection sprinkler systems;

(j) Road and parking area resurfacing, including construction of temporary access to facilitate resurfacing;

(k) Erosion control and soil stabilization measures (such as reseeding and revegetation);

(l) Surveillance and maintenance of surplus facilities in accordance with DOE Order 5820.2, "Radioactive Waste Management";

(m) Repair and maintenance of transmission facilities, including replacement of conductors of the same nominal voltage, poles, circuit breakers, transformers, capacitors, crossarms, insulators, and downed transmission lines, in accordance, where appropriate, with 40 CFR Part 761 (Polychlorinated Biphenyls Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions);

(n) Routine testing and calibration of facility components, subsystems, or portable

equipment (including but not limited to, control valves, in-core monitoring devices, transformers, capacitors); and

(o) Routine decontamination of spot or minor contamination on the surfaces of equipment, rooms, hot cells, or other interior surfaces of buildings (by such activities as wiping with rags, using strippable latex, and minor vacuuming) and removal of contaminated intact equipment (labware) and other materials (e.g., gloves and other clothing).

B1.4 Installation or modification of air conditioning systems required for temperature control for operation of existing equipment.

B1.5 Minor improvements to cooling water systems within an existing building or structure if the improvements would not: (1) Create new sources of water or involve new receiving waters; (2) adversely affect water withdrawals or the temperature of discharged water; or (3) increase introductions of or involve new introductions of hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products.

B1.6 Installation or modification of retention tanks or small (normally under one acre) basins and associated piping and pumps for existing operations to control runoff or spills (such as under 40 CFR part 112). Modifications include, but are not limited to, installing liners or covers.

B1.7 Acquisition, installation, operation, and removal of communication systems, data processing equipment, and similar electronic equipment.

B1.8 Modifications to screened water intake structures that result in intake velocities and volumes that are within existing permit limits.

B1.9 Placement of airway safety markings and painting (but excluding lighting) of existing electrical transmission lines and antenna structures in accordance with Federal Aviation Administration standards.

B1.10 Routine, onsite storage at an existing facility of activated equipment and material (including lead) used at that facility, to allow reuse after decay of radioisotopes with short half-lives.

B1.11 Installation of fencing, including that for border marking, that will not adversely affect wildlife movements or surface water flow.

B1.12 Detonation or burning of explosives or propellants that failed in outdoor tests (i.e., duds) or were damaged in outdoor tests (e.g., by fracturing) in outdoor areas designated and routinely used for explosive detonation or burning under an existing permit issued by state or local authorities.

B1.13 Acquisition or minor relocation of existing access roads serving existing facilities if the traffic they are to carry will not change substantially.

B1.14 Refueling of an operating nuclear reactor, during which operations may be suspended and then resumed.

B1.15 Siting, construction, and operation of small-scale support buildings and support structures (including prefabricated buildings and trailers) and/or small-scale modifications of existing buildings or structures, within or contiguous to an already developed area (where site utilities and roads are available). Covered support buildings and structures (and/or modifications) include those for office purposes; parking; cafeteria services; education and training; visitor reception; computer and data processing services; employee health services or recreation activities; routine maintenance activities; storage of supplies and equipment for administrative services and routine maintenance activities; security (including security posts); fire protection; and similar support purposes, but excluding facilities for waste storage activities, except as provided in other parts of this appendix.

B1.16 Removal of asbestos-containing materials from buildings in accordance with 40 CFR part 61 (National Emission Standards for Hazardous Air Pollutants), subpart M (National Emission Standard for Asbestos); 40 CFR part 763 (Asbestos), subpart G (Asbestos Abatement Projects); 29 CFR part 1910, subpart I (Personal Protective Equipment), § 1910.134 (Respiratory Protection); subpart Z (Toxic and Hazardous Substances), § 1910.1001 (Asbestos, tremolite, anthophyllite and actinolite); and 29 CFR part 1926 (Safety and Health Regulations for Construction), subpart D (Occupational Health and Environmental Controls), § 1926.58 (Asbestos, tremolite, anthophyllite, and actinolite), other appropriate Occupational Safety and Health Administration standards in title 29, chapter XVII of the CFR, and appropriate state and local requirements, including certification of removal contractors and technicians.

B1.17 Removal of polychlorinated biphenyl (PCB)-containing items, such as transformers or capacitors, PCB-containing oils flushed from transformers, PCB-flushing solutions, and PCB-containing spill materials from buildings or other aboveground locations in accordance with 40 CFR part 761 (Polychlorinated Biphenyls Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions).

B1.18 Siting, construction, and operation of additional water supply wells (or replacement wells), within an existing well field, if there would be no drawdown other than in the immediate vicinity of the pumping well, no resulting long-term decline of the water table, and no degradation of the aquifer from the new or replacement wells.

B1.19 Siting, construction, and operation of microwave and radio communication towers and associated facilities, if the towers and associated facilities would not be in an area of great visual value.

B1.20 Small-scale activities undertaken to protect, restore, or improve fish and wildlife habitat, fish passage facilities (such as fish ladders or minor diversion channels), or fisheries.

B1.21 Minor noise abatement measures, such as construction of noise barriers and installation of noise control materials.

B1.22 Relocation of buildings (including, but not limited to, trailers and prefabricated buildings) to an already developed area where site utilities and roads are available and demolition and subsequent disposal of buildings and support structures (including, but not limited to, smoke stacks and parking lot surfaces).

B2. *Categorical Exclusions Applicable to Safety and Health*

B2.1 Modifications of an existing structure to enhance workplace habitability (including, but not limited to: improvements to lighting, radiation shielding, or heating/ventilating/air conditioning and its instrumentation; and noise reduction).

B2.2 Installation of, or improvements to, building and equipment instrumentation (including, but not limited to, remote control panels, remote monitoring capability, alarm and surveillance systems, control systems to provide automatic shutdown, fire detection and protection systems, announcement and emergency warning systems, criticality and radiation monitors and alarms, and safeguards and security equipment).

B2.3 Installation of, or improvements to, equipment for personnel safety and health, including, but not limited to, eye washes, safety showers, radiation monitoring devices, and fumehoods and associated collection and exhaust systems, provided that emissions would not increase.

B2.4 Development and implementation of Equipment Qualification Programs (under DOE Order 5480.6, "Safety of DOE-owned Nuclear Reactors") to augment information on safety-related system components or to improve systems reliability.

B2.5 Safety and environmental improvements of a facility, including replacement and upgrade of facility components, that do not result in a significant change in the expected useful life, design capacity, or function of the facility and during which operations may be suspended and then resumed. Improvements may include, but are not limited to: Replacement/upgrade of control valves, in-core monitoring devices, facility air filtration systems, or substation transformers or capacitors; addition of structural bracing to meet earthquake standards and/or sustain high wind loading; and replacement of aboveground or belowground tanks and related piping if there is no evidence of leakage, based on testing that meets performance requirements in 40 CFR part 280, subpart D (40 CFR part 280.40). This includes activities taken under RCRA, subtitle I; 40 CFR part 265, subpart J; 40 CFR part 280, subparts B, C, and D; and other applicable state, Federal and local requirements for underground storage tanks. These actions do not include rebuilding or modifying substantial portions of a facility, such as replacing a reactor vessel.

B3. *Categorical Exclusions Applicable to Site Characterization, Monitoring, and General Research*

B3.1 Site characterization and environmental monitoring, including siting, construction, operation, and dismantlement or closing (abandonment) of characterization and monitoring devices and siting, construction, and operation of a small-scale laboratory building or renovation of a room in an existing building for sample analysis. Activities covered include, but are not limited to, site characterization and environmental monitoring under CERCLA and RCRA. Specific activities include, but are not limited to:

(a) Geological, geophysical (such as gravity, magnetic, electrical, seismic, and radar), geochemical, and engineering surveys and mapping, including the establishment of survey marks;

(b) Installation and operation of field instruments, such as stream-gauging stations or flow-measuring devices, telemetry systems, geochemical monitoring tools, and geophysical exploration tools;

(c) Drilling of wells for sampling or monitoring of groundwater or the vadose (unsaturated) zone, well logging, and installation of water-level recording devices in wells;

(d) Aquifer response testing;

(e) Installation and operation of ambient air monitoring equipment;

(f) Sampling and characterization of water, soil, rock, or contaminants;

(g) Sampling and characterization of water effluents, air emissions, or solid waste streams;

(h) Installation and operation of meteorological towers and associated activities, including assessment of potential wind energy resources;

(i) Sampling of flora or fauna; and

(j) Archeological, historic, and cultural resource identification in compliance with 36 CFR part 800 and 43 CFR part 7.

B3.2 Aviation activities for survey, monitoring, or security purposes that comply with Federal Aviation Administration regulations.

B3.3 Research, inventory, and information collection activities that are directly related to the conservation of fish and wildlife resources and that involve only negligible animal mortality, habitat destruction, or population reduction.

B3.4 Drop, puncture, water-immersion, thermal, and fire tests of transport packaging for radioactive or hazardous materials to certify that designs meet the requirements of 49 CFR §§ 173.411 and 173.412 and requirements of severe accident conditions as specified in 10 CFR § 71.73.

B3.5 Tank car tests under 49 CFR part 179 (including, but not limited to, tests of safety relief devices, pressure regulators, and thermal protection systems).

B3.6 Indoor bench-scale research projects and conventional laboratory operations (for example, preparation of chemical standards and sample analysis) within existing laboratory facilities.

B3.7 Siting, construction, and operation of new infill exploratory and experimental (test) oil, gas, and geothermal wells, which are to be drilled in a geological formation that has existing operating wells.

B3.8 Outdoor ecological and other environmental research [including siting, construction, and operation of a small-scale laboratory building or renovation of a room in an existing building for sample analysis) in a small area (generally less than five acres) that would not result in any permanent change to the ecosystem.

B3.9 Demonstration actions proposed under the Clean Coal Technology Demonstration Program, if the actions would not increase the quantity or rate of air emissions. These demonstration actions include, but are not limited to:

(a) Test treatment of 20 percent or less of the throughput product (solid, liquid, or gas) generated at an existing and fully operational coal combustion or coal utilization facility;

(b) Addition or replacement of equipment for reduction or control of sulfur dioxide, oxides of nitrogen, or other regulated substances that requires only minor modification to the existing structures at an existing coal combustion or coal utilization facility for which the existing use remains unchanged; and

(c) Addition or replacement of equipment for reduction or control of sulfur dioxide, oxides of nitrogen, or other regulated substances that involves no permanent change in the quantity or quality of coal being burned or used and involves no permanent change in the capacity factor of the coal combustion or coal utilization facility, other than for demonstration purposes of two years or less in duration.

B3.10 Small-scale research and development projects and small-scale pilot projects conducted (for generally less than two years) to verify a concept before demonstration actions, performed in an existing structure not requiring major modification.

B3.11 Outdoor tests and experiments for the development, quality assurance, or reliability of materials and equipment (including, but not limited to, weapon system components), under controlled conditions that would not involve source, special nuclear, or byproduct materials. Covered activities may include, but are not limited to, burn tests (such as tests of electric cable fire resistance or the combustion characteristics of fuels), impact tests (such as pneumatic ejector tests using earthen embankments or concrete slabs designated and routinely used for that purpose), or drop, puncture, water-immersion, or thermal tests.

B4. *Categorical Exclusions Applicable to Power Marketing Administrations and to all of DOE with Regard to Power Resources*

B4.1 Establishment and implementation of short-term contracts, marketing plans, policies, annual operating plans, allocation plans, or acquisition of excess power, the terms of any of which do not exceed five years and would not cause changes in the normal operating limits of generating projects, and if transmission would occur over existing transmission systems.

B4.2 Export of electricity over existing transmission lines as provided by section 202(e) of the Federal Power Act.

B4.3 Changes in rates for electric power, power transmission, and other products or services provided by a Power Marketing Administration that are based on a change in revenue requirements that does not exceed the change in the overall price level in the economy (inflation), as measured by the GNP fixed weight price index published by the Department of Commerce, during the period since the last rate adjustment for that product or service or, if the rate change does exceed the change in the GNP fixed weight price index, the rate change would have no potential for affecting the operation of power generation resources.

B4.4 Power marketing services, including storage, load shaping, seasonal exchanges, or other similar activities if the operations of generating projects would remain within normal operating limits.

B4.5 Temporary adjustments to river operations to accommodate day-to-day river fluctuations, power demand changes, fish and wildlife conservation program requirements, and other external events if the adjustments would occur within the existing operating constraints of the particular hydrosystem operation.

B4.6 Additions or modifications to transmission facilities that would not affect the environment beyond the previously developed facility area, including tower modifications, changing insulators, and replacement of poles, circuit breakers, transformers, and crossarms.

B4.7 Adding fiber optic cable to transmission structures or burying fiber optic cable in existing transmission line rights-of-way.

B4.8 New electricity transmission agreements, and modifications to existing transmission arrangements, to use a transmission facility of one system to transfer power of and for another system, if no new generation projects would be involved and no physical changes in the transmission system would be made beyond the previously developed facility area.

B4.9 Grant or denial of requests for multiple use of a transmission facility rights-of-way, such as grazing permits and crossing agreements, including electric lines, water lines, and drainage culverts.

B4.10 Dismantling and removal of transmission lines and right-of-way abandonment.

B4.11 Construction or modification of substations (including switching stations) with power delivery at 230 kV or below and/or support facilities, that would not involve the construction or relocation of more than 10 miles of transmission lines or the integration of a major new resource.

B4.12 Construction of tap lines (less than 10 miles in length) that are not for the integration of major new sources of generation into a main transmission system.

B4.13 Minor relocations of existing transmission lines (less than 10 miles in length) made to enhance existing environmental and land use conditions. Such actions include relocations to avoid right-of-way encroachments, resolve conflict with property development, accommodate road/highway construction, allow for the construction of facilities such as canals and pipelines, or reduce existing impacts to environmentally sensitive areas.

B5. *Categorical Exclusions Applicable to Conservation, Fossil, and Renewable Energy Activities*

B5.1 Actions to conserve energy, demonstrate potential energy conservation, and promote energy-efficiency that do not increase the indoor concentrations of potentially harmful substances. These actions may involve financial and technical assistance to individuals (such as builders, owners, consultants, designers), organizations (such as utilities), and state and local governments. Covered actions include, but are not limited to: programmed

lowering of thermostat settings, placement of timers on hot water heaters, installation of solar hot water systems, installation of efficient lighting, improvements in generator efficiency and appliance efficiency ratings, development of energy-efficient manufacturing or industrial practices, and small-scale conservation and renewable energy research and development and pilot projects. The actions could involve building renovations or new structures in commercial, residential, agricultural, or industrial sectors. These actions do not include rulemakings, standard-settings, or proposed DOE legislation.

B5.2 Modifications to oil, gas, and geothermal facility pump and piping configurations, manifolds, metering systems, and other instrumentation that would not change design process flow rates or affect permitted air emissions.

B5.3 Modification (but not expansion) or abandonment (including plugging), which is not part of site closure, of crude oil storage access wells, brine injection wells, or geothermal wells.

B5.4 Repair or replacement of sections of a crude oil, produced water, brine, or geothermal pipeline, if the actions are determined by the Army Corps of Engineers to be within the maintenance provisions of a DOE permit under section 404 of the Clean Water Act.

B5.5 Construction and subsequent operation of short offsite crude oil or geothermal pipeline segments between DOE facilities and existing commercial crude oil transportation, storage, or refining facilities, or geothermal transportation or storage facilities, within a single industrial complex, if the pipeline segments are within existing rights-of-way.

B5.6 Removal of oil and contaminated materials recovered in oil spill cleanup operations in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and disposed of in accordance with local contingency plans in accordance with the NCP.

B5.7 Approval of new authorization or amendment of existing authorization to import/export natural gas under section 3 of the Natural Gas Act that does not involve new construction and only requires operational changes, such as an increase in natural gas throughput, change in transportation, or change in storage operations.

B5.8 Approval of new authorization or amendment of existing authorization to import/export natural gas under section 3 of the Natural Gas Act involving a new cogeneration powerplant (as defined in the Powerplant and Industrial Fuel Use Act) within or adjacent to an existing industrial complex and requiring less than 10 miles of new gas pipeline.

B5.9 The grant or denial of any temporary exemption under the Powerplant and Industrial Fuel Use Act of 1978 for any electric powerplant or major fuel-burning installation.

B5.10 The grant or denial of any permanent exemption under the Powerplant and Industrial Fuel Use Act of 1978 of any existing electric powerplant or major fuel-burning installation, other than an exemption under (1) section 312(c) relating to cogeneration, (2) section 312(1) relating to scheduled equipment outages, (3) section 312(b) relating to certain state or local requirements, and (4) section 312(g) relating to certain intermediate load powerplants.

B5.11 The grant or denial of a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 for any new electric powerplant or major fuel-burning installation to permit the use of certain fuel mixtures containing natural gas or petroleum.

B5.12 The grant or denial of a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 for any new peak-load powerplant.

B5.13 The grant or denial of a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 for any new electric powerplant or major fuel-burning installation to permit operation for emergency purposes only.

B5.14 The grant or denial of a permanent exemption from the prohibitions of Titles II and III of the Powerplant and Industrial Fuel Use Act of 1978 for any new or existing major fuel-burning installation for purposes of meeting scheduled equipment outages not to exceed an average of 28 days per year over a three-year period.

B5.15 The grant or denial of a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 for any new major fuel-burning installation which, in petitioning for an exemption due to lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum, certifies that it will be operated less than 600 hours per year.

B5.16 The grant or denial of a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 for any new cogeneration powerplant.

B6. *Categorical Exclusions Applicable to Environmental Restoration and Waste Management Activities*

B6.1 Removal actions under CERCLA (including those taken as final response actions and those taken before remedial action) and removal-type actions similar in scope under RCRA and other authorities (including those taken as partial closure actions and those taken before corrective action), including treatment (e.g., incineration), recovery, storage, or disposal of wastes at existing facilities currently handling the type of waste involved in the removal action. These actions will meet the CERCLA regulatory cost and time limits or satisfy either of the two regulatory exemptions from those cost and time limits (National Contingency Plan, 40 CFR part 300). These actions include, but are not limited to:

(a) Excavation or consolidation of contaminated soils or materials from drainage channels, retention basins, ponds, and spill areas that are not receiving contaminated surface water or wastewater, if surface water or groundwater would not collect and if such actions would reduce the spread of, or direct contact with, the contamination;

(b) Removal of bulk containers (for example, drums, barrels) that contain or may contain hazardous substances, pollutants, contaminants, CERCLA-excluded petroleum or natural gas products, or hazardous wastes (designated in 40 CFR part 261), if such actions would reduce the likelihood of spillage, leakage, fire, explosion, or exposure to humans, animals, or the food chain;

(c) Removal of an underground storage tank including its associated piping and underlying containment systems in compliance with RCRA, subtitle I; 40 CFR part 265, subpart J; and 40 CFR part 280, subparts F and G if such action would reduce the likelihood of spillage, leakage, or the spread of, or direct contact with, contamination;

(d) Repair or replacement of leaking containers;

(e) Capping or other containment of contaminated soils or sludges if the capping or containment would not affect future groundwater remediation and if needed to reduce migration of hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products into soil, groundwater, surface water, or air;

(f) Drainage or closing of man-made surface impoundments if needed to maintain the integrity of the structures;

(g) Confinement or perimeter protection using dikes, trenches, ditches, or diversions if needed to reduce the spread of, or direct contact with, the contamination;

(h) Stabilization, but not expansion, of berms, dikes, impoundments, or caps if needed to maintain integrity of the structures;

(i) Drainage controls (for example, run-off or run-on diversion) if needed to reduce offsite migration of hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum or natural gas products or to prevent precipitation or run-off from other sources from entering the release area from other areas;

(j) Segregation of wastes that react with one another to result in adverse environmental impacts;

(k) Use of chemicals and other materials to neutralize the pH of wastes;

(l) Use of chemicals and other materials to retard the spread of the release or to mitigate its effects if the use of such chemicals would reduce the spread of, or direct contact with, the contamination;

(m) Installation and operation of gas ventilation systems in soil to remove methane or petroleum vapors without any toxic or radioactive co-contaminants if appropriate filtration or gas treatment is in place;

(n) Installation of fences, warning signs, or other security or site control precautions if humans or animals have access to the release; and

(o) Provision of an alternative water supply that would not create new water sources if necessary immediately to reduce exposure to contaminated household or industrial use water and continuing until such time as local authorities can satisfy the need for a permanent remedy.

B6.2 The siting, construction, and operation of temporary (generally less than 2 years) pilot-scale waste collection and

treatment facilities, and pilot-scale (generally less than one acre) waste stabilization and containment facilities (including siting, construction, and operation of a small-scale laboratory building or renovation of a room in an existing building for sample analysis) if the action: (1) Supports remedial investigations/feasibility studies under CERCLA, or similar studies under RCRA, such as RCRA facility investigations/corrective measure studies, or other authorities, and (2) would not unduly limit the choice of reasonable remedial alternatives (by permanently altering substantial site area or by committing large amounts of funds relative to the scope of the remedial alternatives).

B6.3 Improvements to environmental monitoring and control systems of an existing building or structure (for example, changes to scrubbers in air quality control systems or ion-exchange devices and other filtration processes in water treatment systems) if during subsequent operations (1) any substance collected by the environmental control systems would be recycled, released, or disposed of within existing permitted facilities and (2) there are applicable statutory or regulatory requirements or permit conditions for disposal, release, or recycling of any hazardous substance or CERCLA-excluded petroleum natural gas products that are collected or released in increased quantity or that were not previously collected or released.

B6.4 Siting, construction (or modification or expansion), operation, and decommissioning of an onsite facility for storing packaged hazardous waste (as designated in 40 CFR part 261) for 90 days or less or for longer periods as provided in 40 CFR part 262.34 (d), (e), or (f) (e.g., accumulation or satellite areas).

B6.5 Siting, construction (or modification or expansion), operation, and decommissioning of an onsite facility for characterizing and sorting previously packaged waste or for overpacking waste, other than high-level radioactive waste or spent nuclear fuel, if operations do not involve unpacking waste. These actions do not include waste storage (covered under C16).

B6.6 Modification (excluding increases in capacity) of an existing structure used for storing, packaging, or repacking waste other than high-level radioactive waste or spent nuclear fuel, to handle the same class of waste as currently handled at that structure.

B6.7 Under the Low-Level Radioactive Waste Policy Amendments Act of 1985 (5(c)(5)), granting of a petition qualified under 10 CFR part 730.6 for allocation of commercial disposal capacity for an unusual or unexpected volume of commercial low-level radioactive waste or denying such a petition when adequate storage capacity exists at the petitioner's facility.

B6.8 Minor operational changes at an existing facility to minimize waste generation and for reuse of materials. These changes include, but are not limited to, adding filtration and recycle piping to allow reuse of machining oil, setting up a sorting area to improve process efficiency, and segregating two waste streams previously mingled and assigning new identification codes to the two resulting wastes.

B7. *Categorical Exclusions Applicable to International Activities*

B7.1 Planning and implementation of emergency measures pursuant to the International Energy Program.

B7.2 Approval of import or export of small quantities of special nuclear materials or isotopic materials in accordance with the Nuclear Non-Proliferation Act of 1978 and the "Procedures Established Pursuant to the Nuclear Non Proliferation Act of 1978" (43 FR 25326, June 9, 1978).

Appendix C to Subpart D—Classes of Actions that Normally Require EAs But Not Necessarily EISs

Table of Contents

C1. Major Projects
C2. Rate increases more than inflation, not power marketing
C3. Rate increases more than inflation, power marketing
C4. Upgrading (reconstructing) an existing transmission line
C5. Implementation of Power Marketing Administration systemwide vegetation management program
C6. Implementation of Power Marketing Administration systemwide erosion control program
C7. Allocation of power for five years or longer, no major new generation resource/major new loads/major changes in operation of power generation resources
C8. Protection of fish and wildlife habitat
C9. Field demonstration projects for wetlands
C10. Siting/construction/operation/decommissioning of synchrotron radiation accelerator facility
C11. Siting/construction/operation/decommissioning of particle acceleration facility
C12. Siting/construction/operation of energy system prototypes
C13. Import/export natural gas, minor new construction (other than a cogeneration powerplant)
C14. Siting/construction/operation of water treatment facilities
C15. Siting/construction/operation of research and development incinerators/nonhazardous waste incinerators
C16. Siting/construction/operation of onsite waste storage facilities (not high-level, spent nuclear fuel)

C1 Major Projects, as designated by DOE Order 4240.1, "Designation of Major System Acquisitions and Major Projects."

C2 Rate increases for products or services marketed by DOE, except for electric power, power transmission, and other products or services provided by the Power Marketing Administrations, and approval of rate increases for non-DOE entities, that exceed the change in the overall price level in the economy (inflation), as measured by the GNP fixed weight price index published by the Department of Commerce, during the period since the last rate increase for that product or service.

C3 Rate changes for electric power, power transmission, and other products or services provided by Power Marketing Administrations that are based on changes in revenue requirements that exceed the change in the overall price level in the economy (inflation), as measured by the GNP fixed weight price index published by the Department of Commerce, during the period since the last rate change for that power or service and have potential for affecting the operation of power generation resources.

C4 Upgrading (reconstructing) an existing transmission line.

C5 Implementation of a Power Marketing Administration system-wide vegetation management program.

C6 Implementation of a Power Marketing Administration system-wide erosion control program.

C7 Establishment and implementation of contracts, policies, marketing plans, or allocation plans for the allocation of power for periods of five years or longer that do not involve (1) the addition of major (greater than 50 average megawatts) new generation resources, (2) service to discrete major (10 average megawatts or more over a 12 month period) new loads, or (3) major changes in the operating parameters of power generation resources.

C8 Protection, restoration, or improvement of fish and wildlife habitat, fish passage facilities, and fish hatcheries if the proposed action may adversely affect an environmentally sensitive resource.

C9 Field demonstration projects for wetlands mitigation, creation, and restoration.

C10 Siting, construction (or major modification), operation, and decommissioning of a synchrotron radiation (light source) accelerator facility (or other electron beam accelerators) and associated particle storage rings and colliders.

C11 Siting, construction (or major modification), operation, and decommissioning of a low- or medium-energy particle acceleration facility and associated particle storage rings and colliders.

C12 Siting, construction, and operation of energy system prototypes including, but not limited to, wind resource, hydropower, geothermal, fossil fuel, biomass, and solar energy pilot projects.

C13 Approval or disapproval of an application to import/export natural gas under section 3 of the Natural Gas Act involving minor new construction (other than a cogeneration powerplant), such as adding new connections, looping, or compression to an existing natural gas pipeline or converting an existing oil pipeline to a natural gas pipeline using the same right-of-way.

C14 Siting, construction (or expansion), and operation of water treatment facilities, including facilities for wastewater, potable water, and sewage.

C15 Siting, construction (or expansion), and operation of research and development incinerators for any type of waste and of any other incinerators that would treat nonhazardous solid waste (as designated in 40 CFR Part 261.4(b)).

C16 Siting, construction (including modification to increase capacity), operation, and decommissioning of onsite storage

facilities and/or packaging and unpacking facilities (that may include characterization operations) for all waste other than high-level waste or spent nuclear fuel (except for storage of packaged hazardous waste for 90 days or less or for longer periods as provided for in 40 CFR part 262.34 (d), (e), or (f). (Refer to B6.4; also see B6.5 and B6.6.)

Appendix D to Subpart D—Classes of Actions That Normally Require EISs

Table of Contents

D1. Major System Acquisitions
D2. Siting/construction/operation/decommissioning of nuclear fuel reprocessing facilities
D3. Siting/construction/operation/decommissioning of uranium enrichment facilities
D4. Siting/construction/operation/decommissioning of reactors
D5. Main transmission system additions
D6. Integrating transmission facilities
D7. Allocation of power for five years or longer, major new generation resources/major loads/major changes in operation of power generation resources
D8. Import/export of natural gas, involving major new facilities
D9. Import/export of natural gas, involving significant operational change
D10. Siting/construction/operation of major high-level waste treatment, storage, disposal facilities
D11. Siting/construction/expansion of waste disposal facility for transuranic waste
D12. Siting/construction/operation of incinerators (other than research and development, other than nonhazardous solid waste)

D1 Major System Acquisitions, as designated by DOE Order 4240.1, "Designation of Major System Acquisitions and Major Projects."

D2 Siting, construction, operation, and decommissioning of nuclear fuel reprocessing facilities.

D3 Siting, construction, operation, and decommissioning of uranium enrichment facilities.

D4 Siting, construction, operation, and decommissioning of power reactors, nuclear material production reactors, and test and research reactors.

D5 Main transmission system additions (that is, additions of new transmission lines) to a Power Marketing Administration's main transmission grid.

D6 Integrating transmission facilities (that is, transmission system additions for integrating major new sources of generation into a Power Marketing Administration's main grid).

D7 Establishment and implementation of contracts, policies, marketing plans, or allocation plans for periods of five years or longer that involve (1) the addition of major (greater than 50 average megawatts) new generation resources, (2) service to discrete, major (10 average megawatts or more over a 12 month period) new loads, or (3) major changes in the operating parameters of power generation resources.

D8 Approval or disapproval of an application to import/export natural gas under section 3 of the Natural Gas Act involving major new natural gas pipeline construction or related facilities, such as construction of new liquid natural gas (LNG) terminals, regasification or storage facilities, or a significant expansion of an existing pipeline or related facility or LNG terminal, regasification, or storage facility.

D9 Approval or disapproval of an application to import/export natural gas under section 3 of the Natural Gas Act involving a significant operational change, such as a major increase in the quantity of liquid natural gas imported or exported.

D10 Siting, construction, operation, and decommissioning of major treatment, storage, and/or disposal facilities for high-level waste and/or spent nuclear fuel, such as spent fuel storage facilities and geologic repositories.

D11 Siting, construction (or expansion), and operation of a disposal facility for transuranic (TRU) waste and TRU mixed waste (TRU waste also containing hazardous waste as designated in 40 CFR part 261).

D12 Siting, construction, and operation of incinerators, other than research and development incinerators or incinerators for nonhazardous solid waste (as designated in 40 CFR part 261.4(b)).

[FR Doc. 92-9245 Filed 4-23-92; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

National Environmental Policy Act Guidelines, Revocation

AGENCY: Department of Energy.

ACTION: Notice of Revocation.

SUMMARY: The Department of Energy (DOE) revokes its National Environmental Policy Act (NEPA) Guidelines, as amended, as a technical, conforming change to take effect May 26, 1992 when new regulations codifying a modified version of the NEPA Guidelines take effect. The new regulations are published today in the "Rules" section of the **Federal Register.**

DATES: The revocation of the DOE NEPA Guidelines shall be effective May 26, 1992.

FOR FURTHER INFORMATION CONTACT: Carol M. Borgstrom, Director, Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: DOE originally published its NEPA Guidelines on March 28, 1980, at 45 FR 20694. These Guidelines implemented the procedural provisions of the NEPA as required by the Council on Environmental Quality regulations, 40 CFR parts 1500–1508. The NEPA Guidelines were subsequently revised a number of times and were republished in their entirety on December 15, 1987, at 52 FR 47662. The Guidelines were further amended on March 27, 1989, at 54 FR 12474 and on September 7, 1990, at 55 FR 37174.

On November 2, 1990, DOE proposed to codify a modified version of the Guidelines as regulations, 55 FR 46444. A final rule based on that proposal is published today in the "Rules" section of this **Federal Register** to take effect [insert 30 days from publication]. On November 15, 1990 (55 FR 47792), DOE proposed to revoke the existing Guidelines in order to terminate their prospective legal effect as of the date that the new regulations take effect. Public comments on the proposed rulemaking and the proposed revocation of the Guidelines were invited through December 17, 1990, and a public hearing was held on December 5, 1990. No comments were received on the proposed revocation of the Guidelines.

Issued in Washington, DC, April 16, 1992.

Paul L. Ziemer,

Assistant Secretary, Environment, Safety and Health.

The DOE NEPA Guidelines, as amended, 52 FR 47662 (December 15, 1987), 54 FR 12474 (March 27, 1989), and 55 FR 37174 (September 7, 1990), are hereby revoked, effective May 26, 1992.

[FR Doc. 92–9246 Filed 4–23–92; 8:45 am]

BILLING CODE 6450–01–M

federal register

Friday
April 24, 1992

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 139

Airport Certification; Extension of Certain Compliance Dates; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 139

[Docket No. 24812; Amdt. No. 139-19]

Airport Certification; Extension of Certain Compliance Dates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This rule extends the compliance date by which airports certificated under 14 CFR part 139 must comply with certain sign requirements of the Federal Aviation Regulations (FAR). This extension will provide the time necessary for industry to manufacture and airport operators to install the required signs.

DATES: This final rule is effective April 24, 1992. Comments must be received on or before July 23, 1992.

ADDRESSES: Comments on this final rule should be sent, in triplicate, to the Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-010), Docket No. 24812, 800 Independence Avenue, SW., room 915G, Washington, DC 20591. Comments may be inspected in room 915G between 8:30 a.m. and 5 p.m., weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. William DeLoach, Safety and Compliance Division (AAS-300), Office of Airport Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8723.

SUPPLEMENTARY INFORMATION:

Comments Invited

This final rule is being issued without prior notice and prior public comment. However, in accordance with the regulatory policies and procedures of the Department of Transportation, an opportunity for public comment on the final rule is provided. Interested persons are invited to submit comments in triplicate to the address listed under the caption **"ADDRESSES"** above. All comments will be available for examination by interested persons in the rules docket. This amendment may be changed in response to comments received.

Commenters who want the FAA to acknowledge receipt of comments submitted on this final rule must submit a preaddressed, stamped postcard with their comments on which the following statement is made: "Comments to Docket No. 24812." The postcard will be date-stamped by the FAA and returned to the commenter.

Availability of Final Rule

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: APA-200, 800 Independence Avenue, SW., Washington, DC 20591, or by calling the Office of Public Affairs at (202) 267-3484. Communications must identify the docket number (Docket No. 24812) of this amendment. Persons interested in being placed on a mailing list for future notices should request a copy of Advisory Circular 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On November 18, 1987, the FAA published a final rule (52 FR 44276) revising and reorganizing 14 CFR part 139 effective January 1, 1988. The revision included requirements, as contained in § 139.311(a) (3), (4), and (5), pertaining to markings and signs. The FAA subsequently discovered through annual airport certification inspections that many airports were not in compliance with the sign requirements. Moreover, it became evident that there were several interpretations of the sign requirements. The preamble of the notice of proposed rulemaking (NPRM) preceding the final rule stated that the "FAA would work with airports whose lighting and marking systems do not comply with current standards to bring them into compliance over a 4- to 5-year period" (50 FR 43097, October 23, 1985). On October 18, 1988, 14 CFR 139.311 was amended (53 FR 40842) to extend the compliance date for part of § 139.311 to January 1, 1991.

After the October 18, 1988 amendment, owners and operators of certificated airports were informed that the FAA was revising the advisory circulars related to airport markings and signs, and that revised advisory circulars would be published within several months. However, during numerous meetings on the revision of the advisory circular (AC) for sign standards, major differences surfaced between the FAA and the aviation industry. Controversies arose regarding the types and design of airfield signs, applications, colors, compatibility internationally, and other matters. As a result of these differences, the revised AC was not issued within the anticipated timeframe.

In 1990, the FAA met with the International Civil Aviation Organization (ICAO) to develop standardization and consistency of signs. In an effort to develop international uniformity, ICAO brought together a visual aids panel of representatives from the international aviation community to make recommendations for new sign systems. The FAA, as a part of the ICAO working group, decided to delay issuing its revised AC until after the ICAO working group made recommendations for revised standards. This approach was to insure that the revised AC finally adopted by the FAA would minimize the differences with ICAO, and thereby avoid undue expense and inconvenience to airport owners and operators. The ICAO working group did not make its recommendations until May of 1991, long after the January 1, 1991 compliance date set out in § 139.311(f). Prior to the deadline, however, the FAA began issuing exemptions to those airport operators requesting them, and advised airport operators against installing signs solely for the purposes of complying with § 139.311(a)(3), until the FAA issued the revised AC.

A major effort was made to resolve the differences between the FAA and industry and to develop an AC that minimizes differences with those being considered by ICAO. This resulted in the adoption of FAA Advisory Circular 150/5340-18C entitled "Standards for Airport Sign Systems," on July 31, 1991. The AC was coordinated with industry, the airport community, and the international community (ICAO). Because of the lead time required to produce and install the new sign systems, the FAA estimates that it will take approximately two years for certificated airports to complete the task.

At many airports, taxiway systems will have to be renamed. This will require development of sign system plans and will necessitate advertising for bids, awarding contracts, and then installing the new signs. Furthermore, the length of construction seasons varies from region to region, this adds to the total process time.

Airport operators had been encouraged to wait for publication of the AC before attempting to comply with the requirements of § 139.311(a)(3). This was to preclude installation of signs identifying taxiing routes on the movement area where significant changes were being considered.

Most certificated airport operators have completed installation of runway hold position markings and signs, as well as Instrument Landing System critical area markings and signs which

were required by § 139.311(a)(4) and (a)(5). Installation of the hold position signs was designated a very high priority to help reduce incursions at certificated airports.

An extension of the compliance date will provide the time necessary for airports to obtain and install sign systems required by § 139.311(a)(3) that are consistent with the revised AC. The time extension for compliance with the sign installation will enhance nationwide uniformity of airport signs on an expedited basis. The extension will obviate the need for numerous individual exemptions and additional amendments to extend current exemptions.

Regulatory Evaluation Summary

This summary prepared by the FAA provides estimates of the economic consequences of this rule. This summary quantifies, to the extent practicable, estimated costs and benefits of the rule to the private sector, consumers, and Federal, State, and local governments.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a regulatory impact analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, or a significant adverse effect on competition.

The FAA has determined that this rule is not "major" as defined in the executive order. Therefore, a full regulatory impact analysis, which includes the identification and evaluation of cost-reducing alternatives, has not been prepared. Instead, the agency has prepared a summary that presents an analysis of this rule without identifying alternatives. In addition to this summary, the preamble to the rule also contains a regulatory flexibility determination required by the 1980 Regulatory Flexibility Act (Pub. L. 96–354), and an international trade impact assessment.

On November 18, 1987, the FAA published a final rule (52 FR 44276) revising and reorganizing 14 CFR part 139, effective January 1, 1988. Airport compliance with this amendment is complete except for the requirement of 14 CFR 139.311(a)(3). On October 18, 1988, 14 CFR 139.311 was amended (53 FR 40842) to extend the compliance date for § 139.311 to January 1, 1991. This rule extends the compliance date for § 139.311(a)(3) to January 1, 1993. This will relieve the airport operators from the burden of having to apply for exemptions to this rule, and the FAA from processing the exemptions.

The FAA has granted exemptions from § 139.311(a)(3) pending action to amend the rule. Any reduction in safety benefits of extending the compliance date is negligible, because the exemptions relate to less critical guidance signs required by § 139.311(a)(3). Other safety related signs have already been installed at the certificated airports.

The FAA estimates the cost savings from this amendment would be about $355,000. These cost savings represent the sum of the total industry costs of applying for exemptions and the total FAA costs of processing those exemptions. Applying for an exemption costs each airport operator approximately $64 (based on an industry wage rate of approximately $32 per hour, including benefits, for an airport operator for two hours). Processing the exemption costs the FAA about $528. This cost is based on the estimated wage rate including benefits of a GS–13, Step 5 employee ($33) for two days time. The FAA expects there will be approximately 600 applications for exemptions from § 139.311(a)(3) between now and January 1, 1994 if the compliance date is not extended. It is the FAA's position that this proposal will result in a savings by avoiding the need to process exemptions from the sign standards under § 139.311(a)(3). A regulatory evaluation was not prepared for placement into the docket.

International Trade Impact Analysis

This rule will affect airport operators, primarily. The rule will have no impact on trade for U.S. firms doing business overseas or for foreign firms doing business in the United States. There are no expected additional annual costs associated with this rule and, therefore, it should not create an economic disadvantage to either domestic or foreign air carriers operating in the United States.

Regulatory Flexibility Act Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily burdened by government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule has a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The FAA's criterion for a "substantial number" is a number that is not less than 11 and that is more than one third of the small entities subject to the rule. The size threshold annualized cost level in December 1983 dollars is $5,400 for airports. Using the GNP Price Deflator and adjusting to 1990 values, this value is $6,900 for airports.

This rule will affect airport operators. Because the benefits are minimal ($64) for each small airport and below the $6,900 threshold criterion for significant economic impact, the FAA finds this rule will not have a significant impact on a substantial number of small entities.

Reason for Immediate Adoption

This rule is being adopted immediately and without prior public notice and comment. This rule requires immediate adoption to extend an unnecessary and undesirable regulatory compliance date, which has been an unintended burden on airport owners and operators since January 1, 1991. By immediately adopting this amendment, the FAA alleviates the burden and cost of having to process and issue hundreds of exemptions over the next two years. This action also relieves airport owners and operators from having to request exemptions, and provides a reasonable date by which the sign requirements must be met. As explained earlier, the FAA had expected to develop a revised AC on airport sign systems long before January 1, 1991, and, in fact, discouraged airport owners and operators from replacing signs solely to comply with § 139.311(a)(3) until issuance of the revised AC. Notice and comment would not serve any meaningful purpose since the compliance deadline has long passed. Thus, comments for or against extending the compliance date would have had little significant impact or meaning. For all of these reasons, prior public notice and comment are impracticable, unnecessary and contrary to the public interest.

As stated above, an extension of the compliance date is necessary to adequately provide time for industry to manufacture and applicable airports to install sign systems consistent with the revised AC. Although this action is in the form of a final rule, interested persons are invited to comment by submitting such written data, views, or arguments as they may desire. Comments are specifically invited on the overall regulatory, economic and environmental aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is especially helpful in determining

whether modification of the rule is necessary. Comments received on or before the closing date for comments will be considered and this rule may be amended based on the comments received. Comments should be submitted pursuant to the procedure outlined in the "Comments Invited" section above.

Subsequent to receipt and review of all comments, a disposition of comments will be published in the **Federal Register.** This rule may be changed to either shorten or lengthen the compliance extension in response to comments received.

Federalism Implications

The amendment adopted herein does 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 amendment does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), there are no requirements for information collection associated with this rule.

Conclusion

For the reasons discussed in the preamble, the FAA has determined that this final rule is not major under Executive Order 12291; nor is it significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). It is certified that under the criteria of the Regulatory Flexibility Act this amendment will not have a significant economic impact, positive or negative, on a substantial number of small entities. Because of the negligible costs resulting from this rule, the FAA has determined that the expected impact of these regulations is so minimal that they do not warrant a full regulatory evaluation.

List of Subjects in 14 CFR Part 139

Air carriers, Airports, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 139 of the Federal Aviation Regulations (14 CFR part 139) as follows:

1. The authority citation for part 139 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a) and 1432; 49 U.S.C. 106(g) (Revised, Public Law 97–449, January 12, 1983).

2. Part 139 is amended by revising § 139.311(f) to read as follows:

§ 139.311 Marking and lighting.

* * * * *

(f) Not withstanding paragraph (a) of this section, a certificate holder is not required to provide the identified signs in paragraph (a)(3) of this section until January 1, 1994. Each certificate holder shall maintain each marking system that meets paragraph (a)(3) of this section.

Issued in Washington, DC, on April 16, 1992.

Barry Lambert Harris,

Acting Administrator.

[FR Doc. 92–9322 Filed 4–23–92; 8:45 am]

BILLING CODE 4910–13–M

federal register

Friday
April 24, 1992

Part IV

Department of Health and Human Services

Office of Community Services

Request for Applications Under the Office of Community Services' Fiscal Year 1992 Discretionary Grants Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

[Program Announcement No. OCS-92-01]

Request for Applications Under the Office of Community Services' Fiscal Year 1992 Discretionary Grants Program

AGENCY: Administration for Children and Families (ACF), DHHS.

ACTION: Announcement of availability of funds and request for applications under the Office of Community Services' Discretionary Grants Program.

SUMMARY: The Administration for Children and Families, Office of Community Services [OCS] announces that competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority under section 681(a)(2) of the Community Services Block Grant Act of 1981, as amended. This Program Announcement consists of seven parts:

Part A covers information on legislative authorities and defines terms used in the Program Announcement;

Part B lists the three program priority areas under which grants will be made, describes the types of projects that will be considered for funding under each priority area, and defines who is eligible to apply;

Part C provides details on application prerequisites, funds available in each priority area, limitations on grant amounts, project periods, who should benefit from the programs, and other application requirements;

Part D describes the application procedures, including the availability of forms, where and how to submit an application, the criteria used in screening and evaluating applications, and compliance with Federal requirements regarding the drug-free workplace and debarment requirements in submitting the application;

Part E describes the contents of the application package and receipt process;

Part F provides instructions for completing the SF–424 following standard Federal guidelines as well as OCS specific requirements, and describes how the project narrative should be ordered and presented; and

Part G details post-award information and reporting requirements.

CLOSING DATE: The closing date for submission of applications is June 23, 1992.

FOR FURTHER INFORMATION CONTACT: Office of Community Services, Eleria M. Hunter, Director, Division of Community Discretionary Programs, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447, Telephone (202) 401–9340.

Table of Contents

Part A—Preamble
1. Legislative Authority
2. Departmental Goals
3. Definition of Terms
Part B—Program Priority Areas
Part C—Application Prerequisites
1. Eligible Applicants
2. Availability of Funds
3. Project and Budget Periods
4. Mobilization of Resources
5. Program Beneficiaries
6. Number of Projects in Application
7. Multiple Submittals
8. Sub-contracting or Delegating Projects
Part D—Application Procedures
1. Availability of Forms
2. Application Submission
3. Intergovernmental Review
4. Application Consideration
5. Criteria for Screening Applicants
6. Criteria for Review and Evaluation of all Applications (except Priority Area 1.4)
7. Criteria for Review and Evaluation of Applications submitted Under Priority Area 1.4
Part E—Contents of Application and Receipt Process
1. Contents of Application
2. Acknowledgement of Receipt
Part F—Instructions for Completing Application Package
1. SF–424 Application for Federal Assistance
2. SF–424A Budget Information—Non-Construction Programs
3. SF–424B—Assurances—Non-Construction
4. Restrictions on Lobbying Activities
5. Disclosure of Lobbying Activities
6. Project Narrative
Part G—Post Award Information and Reporting Requirements

Part A—Preamble

1. Legislative Authority

Section 681(a)(2) of the Community Services Block Grant Act as amended authorizes the Secretary to make funds available to support program activities of national or regional significance to alleviate the causes of poverty in distressed communities.

2. Departmental Goals

The Secretary has established seven strategic goals guiding the Department of Health and Human Services' policies and programs over the next several years. One of those goals is particularly relevant to OCS' Discretionary Grant Program, i.e., strengthening the American family. The Secretary's Program Directions on how programs should be managed in order to achieve this goal include improving access of youth living in low-income families to needed support services, including employment training and other transition to work services, and improving the integration, coordination and continuity of the various HHS funded services potentially available to families currently living in poverty.

3. Definition of Terms

For purposes of this Program Announcement the following definitions apply:

—Affiliate: A private non-profit entity which has legal and/or financial ties to a community development corporation, and which also meets the statutory requirement that it be governed by a board consisting of residents of the community and business and civil leaders.

—Community development corporation: A private, locally initiated, nonprofit entity, governed by a board consisting of residents of the community and business and civil leaders, which has a record of implementing economic development projects or whose Articles of Incorporation and/or By-Laws indicate that it has a focus in the area of economic development.

—Displaced worker: An individual who is in the labor market but has been unemployed for six months or longer.

—Distressed community: A geographic urban neighborhood or rural community of high unemployment and pervasive poverty.

—Eligible applicant: (See appropriate Priority Area under Part B.)

—Indian tribe: A tribe, band, or other organized group of Indians recognized in the State in which it resides or which is considered by the Secretary of the Interior to be an Indian tribe or an Indian organization for any purpose. For the purpose of Priority Area 1.0 (Urban and Rural Community Economic Development) an Indian tribe or Indian organization is ineligible unless the applicant organization is a private non-profit community economic development corporation.

—Migrant farmworker: An individual who works in agricultural employment of a seasonal or other temporary nature who is required to be absent from his/her place of permanent residence in order to secure such employment.

—Rural: An area that is not within the outer boundary of a metropolitan entity having a population of 25,000 or more and contiguous communities with a population density of 100 persons or more per square mile according to the latest decennial census. Such an area may be located

entirely within one State or made up of contiguous interstate communities.

—Seasonal farmworker: Any individual employed in agricultural work of a seasonal or other temporary nature who is able to remain at his/her place of permanent residence while employed.

—Budget period: The interval of time into which a grant period of assistance is divided for budgetary and funding purposes.

—Project period: The total time for which a project is approved for support, including any approved extensions.

—Employment Education and Training Program: A program that provides education and/or training to welfare recipients, at-risk youth, public housing tenants, displaced workers, homeless and low-income individuals that has demonstrated organizational experience in education and training for these populations (JOBS, JTPA, etc).

Part B—Program Priority Areas

The program priority areas of the Office of Community Services' Discretionary Grants Program and their purposes are as follows:

Priority Area
1.0 Urban and Rural Community Economic Development.
1.1 Urban and Rural Community Economic Development (Operational).
1.2 Urban and Rural Community Economic Development (HBCU Set-Aside).
1.3 Urban and Rural Community Economic Development (Developmental Set-Aside).
1.4 Urban and Rural Community Economic Development (Pre-development Set-Aside).
1.5 Urban and Rural Community Economic Development (YOU Program Set-Aside).

Priority Area
2.0 The Planning and Development of Rural Housing (including rental housing for low-income individuals) and community facilities.
2.1 Rural Housing (including rental housing for low-income individuals).
2.2 Rural Community Facilities Development (Water and Waste Water Treatment Systems Development).

Priority Area
3.0 Assistance for Migrants and Seasonal Farmworkers.
3.1 Assistance for Migrants and Seasonal Farmworkers (HBCU Set-Aside).

Priority Area 1.0 Urban and Rural Community Economic Development

The purpose of this priority area is to encourage the creation of projects intended to provide employment and business development opportunities for low-income people through business, physical or commercial development, and generally to improve the quality of the economic and social environment of low-income residents, including displaced workers, at-risk teenagers, individuals residing in public housing, and individuals who are homeless. It is intended to provide resources to eligible applicants but also has the broader objectives of arresting tendencies toward dependency, chronic unemployment, and community deterioration in urban and rural areas.

To this end, the program also seeks to attract additional private capital into distressed communities, including enterprise zones, and to build and/or expand the ability of local institutions to better serve the economic needs of local residents.

Applications under this Priority Area should include an Executive Summary of the proposal not to exceed five pages. This summary must address the program principles within this announcement and document that the proposed project will have national or regional significance.

Priority Area 1.1 Urban and Rural Community Economic Development (Operational)

Funds will be provided to a limited number of private non-profit community development corporations (or private non-profit affiliates of such corporations) for business development activities at the local level. Funding will be provided for specific projects and will require the submission of business plans or developmental proposals that meet the test of economic feasibility.

Projects must further the Departmental goals of strengthening American families and promoting their self-sufficiency. OCS is particularly interested in receiving applications that stress public-private partnerships that are directed toward the development of economic self-sufficiency through a focus on economic expansion.

Applicants located in State-designated enterprise zones, i.e., an area in which a legislative entity has enacted a program of tax and regulatory relief to encourage business development, are urged to submit applications. Such projects must be linked with and complement enterprise zone initiatives, and may request funds for a business development project or a project that demonstrates innovative ways to involve the poverty community in the implementation of the enterprise zone concept.

Applications must show that the proposed project:

(1) Creates full-time permanent jobs. Seventy-five percent (75%) of those jobs created must be filled by low-income residents of the community and must also provide for career development opportunities. Project emphasis should be on employment of individuals who are unemployed or on public assistance, with particular emphasis on at-risk teenagers, individuals residing in public housing, and individuals who are homeless. While projected employment in future years may be included in the application, it is essential that the focus of employment projects concentrate on those jobs created during the duration of the OCS project period; and/or

(2) Creates a significant number of business development opportunities for low-income residents of the community or significantly aids such residents in maintaining economically viable businesses; and

(3) Provides for establishing the self-sufficiency of program participants.

In the evaluation process, favorable consideration will be given to applicants under this priority area who show the lowest cost-per-job created. Unless there are extenuating circumstances, OCS will not fund projects where the cost-per-job in OCS funds exceeds $15,000.

In addition, favorable consideration in the evaluation process will be given to applicants who demonstrate their intention to coordinate services with the local JOBS office and/or other employment education and training office that serves the proposed area. The JOBS or other employment education and training office should serve welfare recipients, at-risk youth, public housing tenants, displaced workers, homeless and low-income individuals (as defined by DHHS poverty guidelines). Applicants should submit a written agreement from JOBS or other local employment education and training office that indicates what actions will be taken to integrate/coordinate services that relate directly to the project for which funds are being requested. The agreement should include the goals and objectives (including target groups) that the applicant and the employment education and training office expect to achieve through their collaboration. It should describe the cooperative relationship, including specific activities and/or actions each of these entities proposes to carry out in support of the project and the mechanism(s) to be used

in coordinating those activities if the project is funded by OCS. Documentation that illustrates the organizational experience of the employment education and training program should also be included.

Any applicant which proposes to use the requested OCS funds to make an equity investment such as the purchase of stock, or a loan to a business concern, including a wholly-owned subsidiary, or to make a sub-grant with a portion of the OCS funds, must include in its application a written agreement with the third party that commits the latter to the following:

1. A minimum of 75% of the jobs to be created under the grant will be for low-income individuals.

2. The grantee will have authority to screen applicants for jobs to be filled by low-income individuals and to verify their eligibility.

3. The grantee will have a seat on the Board of Directors of the third party's firm if the grantee's investment equals 25% or more of the firm's assets. (Not applicable to loans made to third parties.)

4. Reports will be made on a quarterly basis to the grantee on the use of grant funds.

5. A procedure will be developed to assure that there are no duplicative counts of jobs created.

6. Detailed information will be provided on how the grant funds will be used by the third party by submitting a Source and Use of Funds Statement. In addition, the agreement will provide details on how the community development corporation will provide support and technical assistance to the third-party firm in areas of recruitment and retention of low-income individuals.

Any funds that are proposed to be used for training purposes must be limited to providing specific job-related training to those poverty level individuals who have been selected for employment in the grant supported project or who have been selected for training or participation in a project where potential new jobs have already been identified.

OCS encourages applications that create linkages with community organizations administering the JOBS program which will train and place residents dependent on public assistance into jobs created by the project funded under this priority area.

Projects which would result in the relocation of a business from one geographic area to another with the possible displacement of employees are discouraged.

OCS will not consider applications that propose to establish or expand revolving loan funds, nor proposals that are geared towards the establishment of Small Business Investment Corporations or Minority Enterprise Small Business Investment Corporations.

OCS does not anticipate approving the funding of applications which propose to sub-grant all or most of the grant activities to an unrelated entity, with the exception of applications eligible for the special set-aside fund described below.

Applicants must be aware that projects funded under this priority area must be operational by the end of the project period, i.e., businesses must be in place, and low-income individuals actually employed in those businesses.

Eligible applicants are private, locally initiated, non-profit community development corporations (or private non-profit affiliates of such corporations) governed by a board consisting of residents of the community and business and civic leaders which sponsor enterprises providing employment and business development opportunities for low-income residents of the community designed to increase business and employment opportunities in the community.

See Part F, 6, for special instructions on developing a work program for this priority area.

Priority Area 1.2 Urban and Rural Community Economic Development (HBCU Set-Aside)

For Fiscal Year 1992, a set-aside fund of $2.5 million will be included under this priority area for eligible applicants that submit projects that will be carried out in conjunction with Historically Black Colleges and Universities through contract or sub-grant. Such projects must conform to the purposes, requirements and prohibitions applicable to those submitted under Priority Area. 1.1.

These projects should reflect a significant partnership role for the college or university and the applicant in doing so will be considered to have fulfilled the goals of the Public-Private Partnerships evaluation criterion and will be granted the maximum number of points in that category. Applications for these set-aside funds which are not funded due to the limited amount of funds available will also be considered competitively within the larger pool of eligible applicants under Priority Area 1.1.

See Part F, 6, for special instructions on developing a work program for this priority area.

Priority Area 1.3 Urban and Rural Community Economic Development (Developmental Set-Aside)

OCS intends in this priority area to provide funds to organizations who received grants from OCS in FY 91 under the Pre-Developmental grant program. These organizations will compete only among themselves for $2.5 million. Such projects must conform to the purposes, requirements, and prohibitions applicable to those submitted under Priority Area 1.1.

Priority Area 1.4 Urban and Rural Community Economic Development (Pre-developmental)

OCS intends in this priority area to provide funds to recently-established private, non-profit community development corporations (or affiliates of such corporations) which propose to undertake economic development activities in distressed communities.

OCS recognizes that there are a number of newly-organized non-profit community development corporations who have identified needs in their communities but who have not had the staff or other resources to develop projects to address those needs. This lack of resources also might be affecting their ability to compete for funds, such as those provided under OCS's Urban and Rural Community Development Program (Operational Grants) since their limited resources would preclude them from developing a comprehensive business plan and/or mobilizing resources. OCS has an interest in providing support to these new entities in order to enable them to become more firmly established in their communities, thereby bringing technical expertise and new resources to these previously unserved or underserved communities. Therefore, OCS is setting aside $750,000 in Fiscal Year 1992 for grants to private non-profit community development corporations which have been in existence for no more than three years and have never received OCS funding. From this sum, grants of up to $50,000 each will be made to eligible applicants.

These grants will be made for a period of six months and will not require matching funds.

The grants will be pre-developmental grants under which CDCs or their affiliates may incur costs to: (1) Evaluate the feasibility of potential projects which address identified needs in the low-income community and which conform to those projects and activities allowable under Priority Areas 1.1 and 1.2; (2) develop a Business Plan related to one of those projects; and (3) mobilize

resources to be contributed to projects, including the utilization of Historically Black Colleges and Universities. Based on the availability of funds in Fiscal Year 1993, grantees would be able to compete for any OCS funds and OCS would consider establishing a set-aside. Grants might be for a maximum of $200,000 and competition for those funds restricted to those organizations receiving Fiscal Year 1992 pre-developmental grants. The Business Plan developed as part of the pre-developmental grants would be submitted as part of the competitive application.

Each application for Fiscal Year 1992 funding under this Priority Area must include the following as part of the project narrative in part IV of the SF–424.

1. Description of the impact area, i.e., a description of the low-income area it proposes to address;
2. Analysis of need in the distressed community;
3. Project objectives and measurable impact, i.e., a discussion of the types of projects that might be implemented to address the identified needs and how the proposed projects relate to the applicant's organizational goals and previous experience (if any); and
4. Implementation factors, quarterly work plans with specific task timeliness.

Priority Area 1.5 Urban and Rural Community Economic Development (YOU Program Set-Aside)

For Fiscal Year 1992, $1 million will be set aside to specifically address the Secretary's Program Direction related to improving the integration, coordination and continuity of HHS funded services potentially available to families currently living in poverty. In this instance, OCS is interested in the integration and coordination of services funded under this priority area with those funded by the Department of Labor under its Youth Opportunities Unlimited Program (YOU).

The YOU Program is a demonstration program aimed at high poverty urban neighborhoods and rural counties. The demonstration concentrates a large amount of resources into a relatively small geographic area (neighborhoods of 25,000 or less) with the goal of fundamentally changing the entire set of opportunities facing youth growing up in the area.

This set-aside will be available to applicants eligible for funding under OCS' Urban and Rural Community Economic Development Program who submit applications for projects which will be implemented within the target areas of the YOU demonstration. These target areas are prescribed communities within the cities of Atlanta, Baltimore, Columbus, Los Angeles, Philadelphia, and San Diego and two rural counties within the State of Mississippi. The exact boundaries of these areas are available from the respective YOU coordinators listed in Attachment K to this Program Announcement.

OCS is particularly interested in funding projects under this set-aside that both provide jobs with wages sufficient to support a family and that enhance the long-term economic and social environment of the target area.

Projects funded under this set-aside must conform to the purposes, requirements, and prohibitions applicable to those submitted under Priority Area 1.1. In addition, there must be a formal, cooperative relationship established between the applicant and the agency which received funding under DOL's YOU Program. The application must include a written agreement between the applicant and the YOU Program grantee which contains specific language confirming that the project will be carried out in the target area. The agreement must include the goals and objectives that the applicant and the YOU Program grantee expect to achieve through their collaboration. It also must describe the cooperative relationship, including specific activities and/or actions each of these entities proposes to carry out in support of the project and the mechanism(s) to be used in coordinating those activities if the project is funded by OCS. The extent to which services will be integrated and coordinated and the significance of those services will receive consideration in the review process.

Any applicant which proposes to use the requested OCS funds to make an equity investment such as the purchase of stock, or a loan to a business concern, including a wholly-owned subsidiary, or to make a sub-grant with a portion of the OCS funds, must comply with requirements outlined under Priority Area 1.1.

OCS will make up to two grants under this set-aside with a maximum of $500,000 to be granted for each project. Only one grant will be made to address problems in a particular target area.

Applications for these set-aside funds which are not funded due to the limited amount of funds available also will be considered competitively within the larger pool of eligible applications under priority area 1.1.

Priority Area 2.0 The Planning and Development of Rural Housing (including rental housing for low-income individuals) and Community Facilities

Priority Area 2.1 Rural Housing (including rental housing for low-income individuals)

The purpose of this priority area is to assist low-income residents in rural communities by providing grants to eligible applicants to: (a) Provide technical assistance to help low-income families and individuals more effectively utilize existing local, State and Federal housing assistance programs; and (b) develop innovative ways to meet the housing needs of low-income people, e.g., the rehabilitation or repair of existing substandard housing units for occupancy by low-income residents, the conversion of non-residential buildings to low-income residential use, and the purchase of homes by low-income people.

OCS encourages applications that will assist low-income homeowners to improve their housing through self-help rehabilitation. These applications should not include projects which can be funded through other existing Federal programs.

OCS also encourages the submission of proposals whose aim is to assist homeless families and those at risk of homelessness. Innovative ways to address housing needs of homeless families is of particular interest to OCS.

Projects should produce the following types of tangible improvements and benefits related to housing conditions for rural poor people: interior or exterior structural repairs including weatherization and alternative energy systems; jobs created for local unskilled residents while assuring quality work; technical assistance and professional services related to housing and community planning by community-based design and planning organizations. (Such projects should be conducted with maximum use of voluntary services of professional and community personnel, and development of innovative housing strategies to help low-income rural residents acquire housing.)

Applications calling for new construction or "gut" rehabilitation will only be considered if the application documents that there is insufficient existing housing stock that can be economically rehabilitated.

Funds will not be available for the repair or rehabilitation of low-income rental housing unless the structure is either occupied by a low-income owner or the properties to be repaired are (a)

owned by a private non-profit organization and (b) covered by a written agreement which will ensure continued occupancy by low-income people for at least three years after completion of repairs and rehabilitation.

Funds will not be available under this program priority area for projects that establish or expand a revolving loan fund.

Eligible applicants are States, public agencies or private non-profit organizations, including Historically Black Colleges and Universities.

OCS is particularly interested in receiving applications from such entities as rural housing development corporations, cooperatives, and other public and private organizations with proven accomplishments in the area of rural housing.

See Part F, 6, for special instructions on developing a work program for this priority area.

Priority Area 2.2 Rural Facilities Development (Water and Waste Water Treatment Systems Development)

Funds will be provided under this priority area to help low-income rural communities develop the capability and expertise to establish and/or maintain affordable, adequate and safe water and waste water treatment facilities.

Funds provided under this priority area may not be used for construction of water and waste water treatment systems or for operating subsidies for such systems, but other mobilized funds may be used for these activities. Therefore, it is suggested that applicants coordinate projects with the Farmers Home Administration (FmHA) and other Federal and State agencies to ensure that funds for hardware for local community projects are available.

Eligible applicants are public or private non-profit organizations, including Historically Black Colleges and Universities. In accordance with the authorizing legislation, funding priority will be given to private non-profit organizations that, before the date of the enactment of the Human Services Reauthorization Act of 1986, carried out such programs under the authority found at section 681(a)(2)(D) of the Community Services Block Grant Act.

See Part F, 6, for special instructions on developing a work program for this priority area.

Priority 3.0 Assistance for Migrants and Seasonal Farmworkers

The purpose of this priority area is to fund a limited number of projects which focus exclusively on the problems and special needs of migrants and seasonal farmworkers in order to improve their quality of life and advance self-sufficiency.

OCS will entertain proposals that directly meet farmworker needs in such areas as: homelessness; crisis nutritional relief; the development of self-help systems of food production; emergency health and social services referral and assistance; home repair, rehabilitation, and ownership; direct assistance to low-income farmworkers, including at-risk teenagers, to improve their job skills for them to qualify for long term and permanent full-time employment in agriculture; and/or assistance to low-income farmworkers, including at-risk teenagers, who wish to leave agricultural employment and find jobs in other lines of work. Linkages with the local JOBS program are encouraged wherever appropriate.

Applicants must provide quantifiable objectives for each of the above activities which will be included in the project. OCS encourages applicants to develop linkages with other public and private sector service providers who also are working with migrant and seasonal farmworkers or with issues affecting this target group.

For projects that relate to job skills and training, OCS will not consider applications proposing to use funds exclusively for classroom instruction. Placement must be an integral activity of any training project.

Applications submitted under this priority area must not contain requests for OCS funding for projects that would duplicate Community Services Block Grant funding or activities for which funding is available from other Federal agencies such as the Department of Labor and the Department of Agriculture's Women, Infants and Children (WIC) program.

Eligible applicants are States, public agencies and private non-profit organizations including Historically Black Colleges and Universities.

See Part F, 6, for special instructions on developing a work program for this priority area.

Priority Area 3.1 Assistance for Migrants and Seasonal Farmworkers (HBCU Set-Aside)

For Fiscal Year 1992, a fund of $300,000 will be set aside for Historically Black Colleges and Universities to enable them to offer continuing education to migrants and seasonal farmworkers and to increase participant employment opportunities. Applicants must provide quantifiable objectives for each of the activities which will be included in the project. Applications which are not funded within this set-aside due to the limited amount of funds available will also be considered competitively within the larger pool of eligible applicants under priority area 3.0.

See Part F, 6, for special instructions on developing a work program for this priority area under priority area 3.0.

Part C—Application Prerequisites

1. Eligible Applicants

Priority areas included in this Program Announcement have differing eligibility requirements. Therefore, eligible applicants are identified in the individual priority area descriptions found in Part B, above.

2. Availability of Funds

a. FY 1992 Funds

The Office of Community Services expects to award funds by September 30, 1992 for new grants. The maximum amount of funds available for each Priority Area is summarized below:

Priority area	Fiscal year 1992 funds
1.0 Urban and Rural Community Economic Development:	
1.1 Urban and Rural Community Economic Development (Operational)	$15,250,000
1.2 Urban and Rural Community Economic Development (HBCU Set-Aside)	2,500,000
1.3 Urban and Rural Community Economic Development (Developmental Set-Aside)	2,500,000
1.4 Urban and Rural Community Economic Development (Pre-developmental Set-Aside)	750,000
1.5 Urban and Rural Community Economic Development (YOU Program Set-Aside)	1,000,000
2.0 Planning and Development of Rural Housing and Community Facilities Development	4,099,000
3.0 Assistance for Migrants and Seasonal Farmworkers	2,725,000
3.1 Assistance for Migrants and Seasonal Farmworkers (HBCU Set-Aside)	300,000

b. Grant Amounts

No more than the below stated amounts will be granted for projects under the Priority Areas as indicated:

Priority area	Funding limit
1.1	$500,000
1.2	500,000
1.3	250,000
1.4	50,000
1.5	500,000
2.1	250,000
2.2	330,000
3.0	250,000
3.1	75,000

3. Project and Budget Periods

For Priority Areas 1.1, 1.2, 1.3 and 1.5 applicants with projects involving construction may request project and budget periods up to 36 months. Applicants for other economic development projects under those priority areas and Priority Areas 2.1, 3.0 and 3.1 may request project and budget periods of up to 17 months. For Priority Area 1.4 applicants may request project and budget periods up to six months. By fully funding the projects in FY 92 funding stability in future years will be insured.

For Priority Area 2.2 only: FY 1992 grantees will be funded for a two-year project period, but will only have a twelve month budget period. Based upon a report of satisfactory performance during the first nine months of the FY 1992 grant period, FY 1993 funds may be provided to the FY 1992 grantees on a non-competitive basis for the period beginning October 1, 1993.

4. Mobilization of Resources

OCS will give favorable consideration in the review process to applicants who document public/private partnerships which mobilize cash and/or third-party in-kind contributions. (See Part D, Criterion IV.)

5. Program Beneficiaries

Projects proposed for funding under this announcement must result in direct benefits to low-income people as defined in the most recent Annual Revision of Poverty Income Guidelines published by DHHS.

Attachment A to this announcement is an excerpt from the guidelines currently in effect. Annual revisions of these guidelines are normally published in the **Federal Register** in February or early March of each year. Grantees will be required to apply the most recent guidelines throughout the project period. These revised guidelines also may be obtained at public libraries, Congressional offices, or by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

No other government agency or privately-defined poverty guidelines are applicable for the determination of low-income eligibility for these OCS programs.

Note, however, that low-income individuals granted lawful temporary resident status under Sections 245A or 210A of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986 (Pub. L. 99-603) may not be eligible for direct or indirect assistance based on financial need under this program for a period of five years from the date such status was granted.

6. Number of Projects in Application

An application may contain only one project (except for Priority Area 1.5, where activities undertaken may be in a number of communities or impact areas) and this project must be identified as responding to one of the program priority areas stated in this announcement. Applications which are not in compliance with this requirement will be ineligible for funding.

7. Multiple Submittals

There is no limit to the number of applications that can be submitted under a specific program priority area as long as each application contains a proposal for a different project. However, an applicant will receive only one grant in any Priority Area.

8. Sub-contracting or Delegating Projects

OCS does not fund projects where the role of the applicant is *primarily* to serve as a conduit for funds to organizations other than the applicant. The applicant must have a substantive role in the implementation of the project for which funding is requested.

Part D—Application Procedures

1. Availability of Forms

Attachments B, C, and D contain all of the standard forms necessary for the application for awards under these OCS programs. These forms may be photocopied for the application.

Copies of the **Federal Register** containing this announcement are available at most local libraries and Congressional District Offices for reproduction. If copies are not available at these sources, they may be obtained by writing or telephoning the office listed under the section entitled **"FOR FURTHER INFORMATION"** at the beginning of this announcement.

For purposes of this announcement, all applicants will use SF-424, SF-424A, and SF-424B, regardless of the priority area governing the project. Applications proposing construction projects will also present all required financial data using SF-424A. Instructions for completing the SF-424, SF-424A, and SF-424B are found in Attachments B, C, and D.

Part F contains instructions for the project narrative. The project narrative will be submitted on plain bond paper along with the SF-424 and related forms.

Attachment J provides a checklist to aid applicants in preparing a complete application package for OCS.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments E and F.

2. Application Submission

Applications must be submitted to ACF by the closing date. Refer to "Closing Date" at the beginning of this document for the specific date.

Applications may be mailed to: Administration for Children and Families, Division of Discretionary Grants, 6th Floor OFM/DDG, 370 L'Enfant Promenade SW., Washington, DC 20447.

Hand-delivered applications are accepted during normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Discretionary Grants, 6th Floor OFM/DDG, 901 D Street SW., Washington, DC 20447.

An application will be considered to be received on time if sent on or before the closing date as evidenced by a legible U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier. Private metered postmarks will not be considered acceptable as proof of timely mailing. Applications submitted by any means other than through the U.S. Postal Service or commercial carrier shall be considered as acceptable only if physically received at the above address before close of business on or before the deadline date.

Note: Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicants should check with their local post office. In some instances packages presented for mailing after a pre-determined time are postmarked with the next day's date. In other cases, postmarks are not routinely placed on packages. Applicants are cautioned to verify that there is a date on the package, and that it is the correct date of mailing, before accepting a receipt.

Applications which have a postmark later than the closing date, or which are hand-delivered after the closing date, will be returned to the sender without consideration in the competition.

One signed original application and four copies are required. The first page of the SF-424 must contain in the lower right-hand corner, a designation indicating under which priority area funds are being requested (See Part F, section 1, subsection 11).

3. Intergovernmental Review

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal

Programs," and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alaska, Idaho, Kansas, Louisiana, Minnesota, Nebraska, Virginia, Pennsylvania, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these ten jurisdictions need take no action regarding Executive Order 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of Executive Order 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule.

When comments are submitted directly to AFC, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 6th Floor, OFM/DDG, 370 L'Enfant Promenade, SW, Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as appendix H of this announcement.

4. Application Consideration

Applications which meet the screening requirements in sections 5a and b below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program priority area guidelines and evaluation criteria published in this announcement.

Applications submitted under all priority areas will be reviewed by persons outside of the OCS unit which will be directly responsible for programmatic management of the grant. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since other factors are taken into consideration, including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on previous OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

5. Criteria for Screening Applicants

a. Initial screening

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

(1) The application must contain a Standard Form 424 "Application for Federal Assistance" (SF–424), a budget (SF–424A), and signed "Assurances" (SF–424B) completed according to instructions published in Part F and Attachments B, C, and D of this Program Announcement.

(2) A project narrative must also accompany the standard forms.

(3) The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

(4) The application must be submitted for consideration under one priority area only.

b. Pre-rating review

Applications which pass the initial screening will be forwarded to reviewers and/or OCS staff prior to the programmatic review to verify that the applications comply with this Program Announcement in the following areas:

(1) Eligibility: Applicant meets the eligibility requirements for the priority area under which funds are being requested. Proof of non-profit status must be included in the Appendices of the Project Narrative where applicable. Applicants must also be aware that the applicant's legal name as required in SF–424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 6).

(2) Number of Projects: The application contains only one project which responds to one of the priority areas in this announcement.

(3) Grant amount: The amount of funds requested does not exceed the limits indicated in Part C, 2, b for the appropriate priority area.

(4) Cooperative Partnership Agreement (Priority Area 1.5 only)

(a) The application contains a written agreement signed by the applicant and the YOU Program grantee in the target service area; and

(b) The agreement contains specific language confirming that the project will be carried out in the target area.

(5) Written Agreement When Applicant Proposes to Make Equity Investment, Loan, or Sub-Grant: (Priority Areas 1.1 and 1.5); The application contains a written agreement signed by the applicant and the third party which includes all of the elements required in Part B, Priority Area 1.1 and Priority Area 1.5.

An application may be disqualified from the competition and returned if it does not conform to one or more of the above requirements.

c. Evaluation Criteria

Applications which pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in the announcement.

The in-depth evaluation and review process will use the following criteria coupled with the specific requirements contained under each program priority area as described in Part B.

(Note: the following review criteria reiterate collection of information requirements contained in Part F of this announcement. These requirements are approved under OMB Control Number 0970–0062.)

6. Criteria for Review and Evaluation of All Applications Except Priority Area 1.4

(a) Criterion I: Analysis of Need (Maximum: 5 Points)

The application documents that the project addresses a vital need in a distressed community and provides statistics and other data and information in support of its contention.

(b) Criterion II: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 15 Points)

(i) *Organizational experience in program area (sub-rating: 0–5 points).* Documentation provided indicates that projects previously undertaken have been relevant and effective and have provided permanent benefits to the low-income population.

Organizations which propose providing training and technical assistance have detailed competence in the specific program priority area and as a deliverer with expertise in the fields of training and technical assistance. If applicable, information provided by these applicants also addresses related achievements and competence of each cooperating or sponsoring organization.

Applicable to Priority Areas 1.1, 1.2, 1.3 and 1.5

The applicant has demonstrated: the ability to implement major activities in such areas as business development, commercial development, physical development, or financial services; the ability to mobilize dollars from sources such as the private sector (corporations, banks, etc.), foundations, the public sector, including State and local governments, or individuals; that it has a sound organizational structure and proven organizational capability; and an ability to develop and maintain a stable program in terms of business, physical or community development activities that will provide needed permanent jobs, services, business development opportunities, and other benefits to community residents.

(ii) *Staff skills, resources and responsibilities (sub-rating 0–10 points).* The application describes in brief resume form the experience and skills of the project director who is not only well qualified, but his/her professional capabilities are relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description which indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project. The applicant has adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan. The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project.

(c) Criterion III: Project Implementation (Maximum: 25 points)

The Work Plan, or Business Plan where appropriate, is both sound and feasible. The project is responsive to the needs identified in the Analysis of Need. It sets forth realistic quarterly time targets by which the various work tasks will be completed. Critical issues or potential problems that might impact negatively on the project are defined and the project objectives can be reasonably attained despite such potential problems.

(d) Criterion IV A: Significant and Beneficial Impact (Maximum: 30 Points) (Applicable to Priority Areas 1.1, 1.2, 1.3 and 1.5)

(i) *Significant and beneficial impact (sub-rating: 0–15 points).* The application contains a full and accurate description of the proposed use of the requested financial assistance. The proposed project will produce permanent and measurable results that will reduce the incidence of poverty in the community. The OCS grant funds, in combination with private and/or other public resources, are targeted into low-income communities, distressed communities, and/or designated enterprise zones.

(ii) *Cost-per-job (sub-rating: 0–10 points).* During the project period the proposed project will create new, permanent jobs or maintain permanent jobs for low-income residents at a cost-per-job below $15,000 in OCS funds.

[Note: The maximum number of points will be given to those applicants proposing cost-per-job estimates of $5,000 or less of OCS requested funds. Higher cost-per-job estimates will receive correspondingly fewer points.]

(iii) *Career development opportunities (sub-rating: 0–5 points).* The application documents that the jobs to be created for low-income people have career development opportunities which will promote self-sufficiency.

(d) Criterion IV B: Significant and Beneficial Impact (Maximum: 30 Points) (Applicable to Priority Areas 2.1, 2.2, 3.0 and 3.1)

The application contains a full and accurate description of the proposed use of the requested financial assistance. The proposed project will produce permanent and measurable results that will reduce the incidence of poverty in the areas targeted and significantly enhance the self sufficiency of program participants. Results are quantifiable in terms of program area expectations, e.g., number of units of housing rehabilitated, agricultural and non-agricultural job placements, etc. The OCS grant funds, in combination with private and/or other public resources, are targeted into low-income and/or distressed communities and/or designated enterprise zones.

(e) Criterion V A: Public-Private Partnerships (Maximum: 20 Points) (Applicable to all Priority Areas Except 1.1 and 1.5.)

The application documents that the applicant will mobilize from public and/or private sources cash and/or inkind contributions valued at an amount equal to the OCS funds requested. Applicants documenting that the value of such contributions will be at least equal to the OCS funds requested will receive the maximum number of points for this Criterion. Lesser contributions will be given consideration based upon the value documented. Applicants under Priority Area 1.2 who are proposing to enter into a partnership with Historically Black Colleges and Universities are deemed to have fully met this criterion and will receive the maximum number of points.

(f) Criterion V B: Public-Private Partnerships (Maximum: 20 Points) (Applicable to Priority Area 1.1 only)

(1) Mobilization of resources (sub-rating: 15 points). The application must document that the applicant will mobilize from public and/or private sources cash and/or in-kind contributions valued at an amount equal to the OCS funds requested. Applicants documenting that the value of such contributions will be at least equal to the OCS funds requested will receive the maximum number of points for this subcriterion. Lesser contributions will be given consideration based upon the value documented.

(2) Integration/coordination of services: (subrating: 5 points). The applicant demonstrates a commitment to coordination with the local JOBS office and/or other employment education and training program (such as

JTPA) to ensure that welfare recipients, at-risk youth, displaced workers, public housing tenants, homeless and low-income individuals will be trained and placed in the newly created jobs. The applicant provides written agreement from the local JOBS or other employment education and training office indicating what actions will be taken to integrate/coordinate services that relate directly to the project for which funds are being requested.

Specifically, the agreement should include (1) the goals and objectives that the applicant and the JOBS or other employment education and training office expect to achieve through their collaboration; (2) the specific activities/actions that will be taken to integrate/coordinate services on an on-going basis; (3) the target population that this collaboration will serve; (4) the mechanism(s) to be used in integrating/coordinating activities; (5) how those activities will be significant in relation to the goals and objectives to be achieved through the collaboration; and (6) how those activities will be significant in relation to their impact on the success of the OCS-funded project.

The applicant should also provide documentation that illustrates the organizational experience of the employment education and training program (refer to Criterion II for guidelines).

(g) Criterion V: Public-Private Partnerships (Maximum: 20 Points) (Applicable to Priority Area 1.5 only.)

(1) Mobilization of resources (sub-rating: 10 points). The application documents that the applicant will mobilize from public and/or private sources cash and/or in-kind contributions valued at an amount equal to half of the OCS funds requested. Applicants documenting that the value of such contributions will be at least equal to half of the OCS funds requested will receive the maximum points (10) of this subcriterion.

(2) Integration/coordination of services (sub-rating: 10 points). The written agreement between the applicant and the organization which received FY 91 funding under the Department of Labor's Youth Opportunities Unlimited Program indicates that the actions to be taken to integrate/coordinate services relate directly to the project for which funds are being requested. The agreement clearly describes the following: (1) The goals and objectives that the applicant and the YOU program grantee expect to achieve through their collaboration; (2) a number of specific activities/actions that will be taken to integrate/coordinate services on an on-going basis; (3) the mechanism(s) to be used in integrating/coordinating activities; (4) how those activities will be significant in relation to the goals and objectives to be achieved through the collaboration; and (5) how those activities will be significant in relation to their impact on the success of the OCS-funded project.

(h) Criterion VI: Budget Appropriateness and Reasonableness (Maximum: 5 Points)

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The application includes a detailed budget break-down for each of the budget categories in the SF–424A. The applicant presents a reasonable administrative cost. The estimated cost to the government of the project also is reasonable in relation to the anticipated results.

7. Criteria for Review and Evaluation of Applications Submitted Under Priority Area 1.4

a. Criterion I: Organizational Capability and Capacity (Maximum: 20 Points)

(1) Organizational experience in program area (sub-rating: 5 points). Where the applicant has a history of prior activity or achievement in economic development, the documentation must address the relevance and effectiveness of projects undertaken, especially their cost effectiveness and the relevance and effectiveness of any services and the permanent benefits provided to the targeted population. Applicants must also indicate why they feel that they can successfully implement the project for which they are requesting funds.

(2) Management capacity (sub-rating: 5 points). Applicants must fully detail their ability to implement sound and effective management practices and if they have been recipients of other Federal or other governmental grants, they must also detail that they have consistently complied with financial and program progress reporting and audit requirements. Applicants should submit any available documentation on their management practices and progress reporting procedures along with a statement by a Certified or Licensed Public Accountant as to the sufficiency of the applicant's financial management system to protect adequately any Federal funds awarded under the application submitted.

(3) Staffing (sub-rating: 5 points). The application must fully describe (e.g. resumes) the experience and skills of key staff showing that they are not only well qualified but that their professional capabilities are relevant to the successful implementation of the project.

(4) Staffing responsibilities (sub-rating: 5 points). The application must describe how the assigned responsibilities of the staff are appropriate to the tasks identified for the project.

b. Criterion II: Significant and Beneficial Impact (Maximum: 35 Points)

A work plan funded under this announcement must show that there is a clearly identified need in a low-income area which is not being effectively addressed currently.

Project funds under this announcement must be used to develop a Business Plan for a project which would produce permanent and measurable results that will reduce the incidence of poverty in the areas targeted and mobilize non-Discretionary Program dollars from private sector individuals, corporations, and foundations if the project is implemented. The project around which the Business Plan is developed with the use of OCS grant funds must be targeted into low-income communities, and/or designated enterprise zones, with the goals of increasing the economic conditions and social self-sufficiency of residents. Activities must be designed to achieve the specific Program Priority Area 1.4 objectives as defined in this program announcement.

c. Criterion III: Project Implementation and Evaluation (Maximum: 30 Points)

(1) Project implementation component (sub-rating: 25 points). The application must contain a detailed and specific work plan that is both sound and feasible. It must set forth realistic quarterly time targets by which the various work tasks will be completed. Because quarterly time schedules are used by OCS as a key instrument to monitor progress, failure to include these time targets may seriously reduce an applicant's point score in this criterion. It must define critical issues or potential problems that might impact negatively on the project and it must indicate how the project objectives will be attained notwithstanding any such potential problems.

(2) Evaluation component (sub-rating: 5 points) All proposals should include a self-evaluation component. The evaluation data collection and analysis procedures should be specifically oriented to assess the degree to which the stated goals and objectives are achieved. Qualitative and quantitative

measures reflective of the scheduling and task delineation in (1) above should be used to the maximum extent possible. This component should indicate the ways in which the potential grantee would integrate qualitative and quantitative measures of accomplishment and specific data into its program progress reports that are required by OCS from all grantees.

d. Criterion IV: Budget Appropriateness and Reasonableness (Maximum: 15 Points)

Each applicant should carefully review the requirements of Program Priority Area 1.4 and the budget submitted must coincide with those requirements.

The proposal's request for funds must include a detailed budget breakout for each of the pertinent budget categories in part III, section B of the SF–424. (Please identify any positions for which less than full-time funding is requested.)

Part E—Contents of Application and Receipt Process

1. Contents of Application

Each application, whether involving construction or not, should include one original and four additional copies of the following:

a. A signed "Application for Federal Assistance" (SF–424);

b. "Budget Information-Non-Construction Programs" (SF–424A);

c. A signed "Assurances-Non-Construction Programs" (SF–424B);

d. A Project Narrative consisting of the following elements preceded by a consecutively numbered Table of Contents that will describe the project in the following order:

(i) Eligibility Confirmation

(ii) Analysis of Need

(iii) Organizational Experience and Staff Responsibilities

(iv) Work Program (including Executive Summary)

(v) Appendices, including By-Laws; Articles of Incorporation; proof of non-profit status where applicable; resumes; Singles Point of Contact comments, where applicable; and, for Priority Area 1.5 only, a written agreement signed by the applicant and an organization funded by the Department of Labor under the YOU program.

The original must bear the signature of the authorizing representative of the applicant organization.

The total number of pages for the entire application package should not exceed 50 pages.

Applications should be two holed punched at the top center and fastened separately with a compressor slide paper fastener or a binder clip. The submission of bound applications, or applications enclosed in binders, is especially discouraged.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ × 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded, if included.

2. Acknowledgement of Receipt

All applicants will receive an acknowledgement postcard with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application which can be attached to this acknowledgement postcard. This number and the program priority area letter code must be referred to in all subsequent communications with OCS concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone (202) 401–9230.

Part F—Instructions for Completing Application Package

(Approved by the Office of Management and Budget under Control Number 0970–0062. The standard forms attached to this announcement shall be used to apply for funds for all priority areas described in this announcement.)

It is suggested that you reproduce the SF–424 and SF–424A, and type your application on the copies. If an item on the SF–424 cannot be answered or does not appear to be related or relevant to the assistance requested, write "NA" for "Not Applicable."

Prepare your application in accordance with the standard instructions given in Attachments B and C corresponding to the forms, as well as the OCS specific instructions set forth below:

1. SF–424 "Application for Federal Assistance" Item

1. For the purposes of this announcement, all projects are considered "Applications"; there are no "Pre-Applications." Also for the purposes of this announcement, construction projects are those which involve major renovations or construction. All others are considered non-construction. Check the appropriate box under "Application."

5 and 6. The legal name of the applicant must match that listed as corresponding to the Employer Identification Number. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (PIN/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled "Federal Identifier" located at the top right hand corner of the form.

7. If the applicant is a non-profit corporation, enter "N" in the box and specify "non-profit corporation" in the space marked "Other." Proof of non-profit status, such as IRS determination or appropriate sections of the Articles of Incorporation, or By-laws, must be included as an appendix to the project narrative.

8. For the purposes of this announcement, all applications are "New."

9. Enter DHHS–ACF/OCS.

10. The Catalog of Federal Domestic Assistance number for OCS programs covered under this announcement is 93.032. The title is "CSBG Discretionary Awards."

11. The following letter program priority area designations must be used:

UR—for Priority Area 1.1. Urban and Rural Community Economic Development (Operational)

HB—for Priority Area 1.2. Urban and Rural Community Economic Development (HBCU Set-Aside)

DM—for Priority Area 1.3. Urban and Rural Community Economic Development (Developmental Set-Aside)

PD—for Priority Area 1.4. Urban and Rural Community Economic Development (Pre-Developmental Set-Aside)

UY—for Priority Area 1.5. Urban and Rural Community Economic Development (YOU Program Set-Aside)

RH—for Priority Area 2.1. Rural Housing Repairs and Rehabilitation (including rental housing for low-income individuals)

RF—for Priority Area 2.2. Rural Community Facilities Development (Water and Waste Water Treatment Systems Development)

MS—for Priority Area 3.0. Assistance for Migrants and Seasonal Farmworkers

HM—for Priority Area 3.1. Assistance for Migrants and Seasonal Farmworkers (Set-Aside)

2. SF–424A–"Budget Information—Non-Construction Programs"

See Instructions accompanying this form as well as the instructions set forth below:

In completing these sections, the "Federal Funds" budget entries will relate to the requested OCS discretionary funds only, and "Non-Federal" will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS discretionary funding should be included in "Non-Federal" entries.

The Budget forms in SF–424A are only to be used to present grant administrative costs and major budget categories. Financial data that is generated as part of a project Business Plan or other internal project cost data must be separate and should appear as part of the project Business Plan or other project implementation data.

Sections A and D of SF–424A must contain entries for both Federal (OCS) and non-Federal (mobilized) funds. Section B contains entries for Federal (OCS) funds only. Clearly identified continuation sheets in SF–424A format should be used as necessary.

Section A—Budget Summary

Lines 1–4
Col. (a):
Line 1 Enter "CSBG Discretionary";
Col. (b):
Line 1 Enter "93.032";
Col. (c) and (d):
Applicants should leave columns (c) and (d) blank.
Column (e)–(g):
For line 1, enter in columns (e), (f), and (g) the appropriate amounts needed to support the project for the budget period.

Line 5 Enter the figures from Line 1 for all columns completed as required, (c), (d), (e), (f), and (g).

Section B—Budget Categories

Allowability of costs are governed by applicable cost principles set forth in 45 CFR Parts 74 and 92. Columns (1) and (5):

In OCS applications, it is only necessary to complete Columns (1) and (5).

Column 1: Enter the total requirements for OCS Federal funds by the Object Class Categories of this section:

Personnel—Line 6a: Enter the total costs of salaries and wages of applicant/grantee staff only. Do not include costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits—Line 6b: Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate which is entered on line 6j. Provide a breakdown of amounts and percentages that comprise fringe benefit costs.

Travel—Line 6c: Enter total costs of all travel by employees of the project. Do not enter costs for consultant's travel. Provide justification for requested travel costs. (See Line 6h and Line 21 for additional instructions).

Equipment—Line 6d: Enter the total costs of all nonexpendable personal property to be acquired by the project. "Non-expendable personal property" means tangible personal property having an acquisition cost per unit of $500 or more for non-profit organizations and $5,000 or more for public organizations and having a useful life of one year. An applicant may use its own definition of non-expendable personal property, provided that such a definition would at least include all tangible personal property as defined in the preceding sentence. (See Line 21 for additional requirements).

Supplies—Line 6e: Enter the total costs of all tangible personal property (supplies) other than that included on line 6d.

Contractual—Line 6f: Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations including delegate agencies and specific project(s) or businesses to be financed by the applicant. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individual service contractors on this line. If available at the time of application, attach a list of contractors indicating the name of the organization, the purpose of the contract and the estimated dollar amount of the award. If the name of contractor, scope of work, or estimated total are not available or have not been negotiated, include these in Line h, "Other". Travel costs for the Executive Director or Project Director to attend a two day national workshop in Washington, D.C. should be included.

Note: Whenever the applicant/grantee intends to delegate part of the program to another agency, the applicant/ grantee must submit Sections A and B of this form (SF–424A), completed for each delegate agency by agency title, along with the required supporting information referenced in the applicable instructions. The total costs of all such agencies will be part of the amount shown on Line 6f. Provide back-up documentation identifying name of contractor, purpose of contract and major cost elements.

Construction—Line 6g: Enter the costs of renovation, repair, or new construction. Provide narrative justification and breakdown of costs.

Other—Line 6h: Enter the total of all other costs. Such costs, where applicable, may include but are not limited to insurance, food, medical and dental costs (noncontractual), fees and travel paid directly to individual consultants, space and equipment rentals, printing and publication, computer use, training costs, including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Total Direct Charges—Line 6i: Show the total of Lines 6a through 6h.

Indirect Charges—Line 6j: Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or another Federal agency or is awaiting such approval. With the exception of local governments, applicants should enclose a copy of the current rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services.

If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately, upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent DHHS Guide for Establishing Indirect Cost Rates, and submit it to the appropriate DHHS Regional Office.

It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not be also charged as direct costs to the grant.

Totals—Line 6k: Enter the total amounts of Lines 6i and 6j. The total amount shown in Section B, Column (5), Line 6k, should be the same as the amount shown in Section A, Line 5, Column (e).

Program Income—Line 7: Enter the estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of

income in the program narrative statement.

Column 5: Carry totals from Column 1 to Column 5 for all line items.

Section C—Non-Federal Resources

This section is to record the amounts of "non-Federal" resources that will be used to support the project. "Non-Federal" resources mean other than OCS funds for which the applicant is applying. Therefore, mobilized funds from other Federal programs, such as the Job Training Partnership Act program, should be entered on these lines. Provide a brief listing of the non-Federal resources on a separate sheet and describe whether it is a grantee-incurred cost or a third-party in-kind contribution. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the Public-Private Partnerships criterion.

Except in unusual situations, this documentation must be in the form of letters of commitment from the organization(s)/individuals from which funds will be received.

Line 8:

Column (a) enter the project title.

Column (b): Enter the amount of contributions to be made by the applicant to the project.

Column (c): Enter the State contribution. If the applicant is a State agency, enter the non-Federal funds to be contributed by the State other than the applicant.

Column (d): Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e): Enter the total of columns (b), (c), and (d).

Lines 9, 10, and 11 should be left blank.

Line 12:

Carry the total of each column of Line 8, (b) through (e). The amount in Column (e) should be equal to the amount on Section A, Line 5, column (f).

Section D—Forecasted Cash Needs

Line 13—Enter the amount of Federal (OCS) cash needed for this grant by quarter. During the budget period for grants which are more than twelve (12) months, submit a separate sheet for each additional twelve (12) months or portion thereof.

Line 14—Enter the amount of cash from all other sources needed by quarter during the budget period.

Line 15—Enter the total of Lines 13 and 14.

Section E—Budget Estimates of Federal Funds Needed for Balance of Project(s)

To be completed by applicants applying under Priority Area 2.2 only.

Section F—Other Budget Information

Line 21—Use this space and continuation sheets as necessary to fully explain and justify the major items included in the budget categories shown in Section B. Include sufficient detail to facilitate determination of allowability, relevance to the project, and cost benefits. Particular attention must be given to the explanation of any requested direct cost budget item which requires explicit approval by the Federal agency. Budget items which require identification and justification shall include, but not be limited to, the following:

A. Salary amounts and percentage of time worked for those key individuals who are identified in the project narrative;

B. Any foreign travel;

C. A list of all equipment and estimated cost of each item to be purchased wholly or in part with grant funds which meet the definition of nonexpendable personal property provided on Line 6d, Section B. Need for equipment must be supported in program narrative.

D. Contractual: Major items or groups of smaller items; and

E. Other: group into major categories all costs for consultants, local transportation, space, rental, training, allowances, staff training, computer equipment, etc. Provide a complete breakdown of all costs that make up this category.

Line 22—Enter the type of HHS or other Federal agency approved indirect cost 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. Also, enter the date the rate was approved, where applicable. Attach a copy of the rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services.

Line 23—Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

3. SF–424B "Assurances-Non-Construction"

Fill out, sign and date form found at Attachment D.

4. Restrictions on Lobbying Activities

Certification for Contracts, Grants, Loans, and Cooperative Agreements: Fill out, sign and date form found at Attachment H.

5. Disclosure of Lobbying Activities

SF–LLL: Fill out, sign and date form found at Attachment H, if applicable.

6. Project Narrative

The project narrative must address the specific concerns mentioned under the relevant priority area description in Part B. The narrative should provide information on now the application meets the evaluation criteria in Part D, Section 5 c of this Program Announcement and should follow the format below:

a. Eligibility Confirmation

This section must explain how the applicant has complied with each of the basic requirements listed in Part D, 5 b (1)–(5), i.e., (1) that the applicant meets the eligibility requirements for the priority area under which funds are being requested; (2) the application contains only one project which responds to one of the priority areas in the announcement; (3) the amount of funds requested does not exceed the limits indicated in Part C, Section 2, b for the appropriate priority area; (4) (Priority Area 1.5 only) the application contains a written agreement signed by the applicant and the YOU Program grantee in the target area and the agreement contains specific language confirming the project will be carried out in the YOU Program target area.

b. Analysis of Need

The application should include a description of the target area and population to be served as well as a discussion of the nature and extent of the problem to be solved. It should also include documentation supportive of its needs assessment such as employment statistics, housing statistics, etc.

c. Organizational Experience and Staff Responsibilities

(i) Organizational experience. Each applicant must document competence in the specific program priority area under which an application is submitted.

Documentation must be provided which addresses the relevance and effectiveness of projects previously undertaken in the specific priority area for which funds are being requested and especially their cost effectiveness, the relevance and effectiveness of any services provided, and the permanent benefits provided to the low-income population. Organizations which propose providing training and technical assistance must detail their competence

in the specific program priority area and as a deliverer with expertise in the fields of training and technical assistance. If applicable, information provided by these applicants must also address related achievements and competence of each cooperating or sponsoring organization.

Applicable to Priority Areas 1.1, 1.2, 1.3 and 1.5

Applicants in these priority areas must also document a firmly established and quantifiable performance record that shows the following:

—The ability to implement major activities such as business development, commercial development, physical development, or financial services;
—Successful working relationships within the community including public officials, financial institutions, corporations, other community organizations and residents;
—A sound asset base and organizational structure in terms of (a) net worth, (b) management stability, and (c) organizational capability;
—An ability to develop and maintain a stable program in terms of business, physical or community development activities that will provide needed permanent jobs, services, business development opportunities and other benefits to community residents, and impact on community-wide economic problems and needs;
—Sound administrative and fiscal systems and controls, and the ability to establish and maintain partnerships with the private sector in such forms as financial support, volunteerism or executives on loan.

(ii) Staff skills, resources and responsibilities. The application must fully describe (e.g. a resume or position description) the experience and skills of the proposed project director showing that the individual is not only well qualified but that his/her professional capabilities are relevent to the successful implementation of the project.

The application must include statements regarding who will have the responsibilities of the chief executive officer, who will be responsible for grant coordination with OCS, and how the assigned responsibilities of the staff are appropriate to the tasks identified for the project. It must show clearly that sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project.

d. Work Program

The application must contain a detailed and specific work program, or Business Plan where appropriate, that is both sound and feasible. (For those applicants submitting proposals under Priority Areas 1.1, 1.2, 1.3 and 1.5 the Business Plan will be accepted in lieu of the work program.)

The work program will be evaluated according to Criteria III, IV, and V set forth in Part D of this announcement: Project Implementation, Significant and Beneficial Impact, and Public-Private Partnerships.

Projects funded under this announcement must be designed to produce permanent and measurable results that will reduce the incidence of poverty in the areas targeted. The OCS grant funds, in combination with private and/or other public resources, must be targeted into low-income communities, distressed communities, and/or designated enterprise zones. Projects must be designed to achieve the specific program priority area objectives defined in this Program Announcement.

It must set forth realistic quarterly time targets by which the various work tasks will be completed. It must identify critical issues or potential problems that might impact negatively on the project and it must indicate how the project objectives will be attained despite such potential problems.

If an applicant is proposing a project which will affect a property listed in, or eligible for inclusion in the National Register of Historic Places, it must identify this property in the narrative and explain how it has complied with the provisions of Section 106 of the National Historic Preservation Act of 1966 as amended. If there is any question as to whether the property is listed in or eligible for inclusion in the National Register of Historic Places, the applicant should consult with the State Historic Preservation Officer. (See Attachment D: SF–424B, Item 13 for additional guidance.) The applicant should contact OCS early in the development of its application for instructions regarding compliance with the Act and data required to be submitted to the Department of Health and Human Services. Failure to comply with the cited Act may result in the application being ineligible for funding consideration.

Applicable to Priority Area 1.4 See Instructions Under Part B—Priority Area 1.4

Applicable to Priority Areas 1.1, 1.2, 1.3 and 1.5

Applications submitted under Priority Areas 1.1, 1.2, 1.3 and 1.5 which propose to use the requested OCS funds to make an equity investment or a loan to a business concern, including a wholly-owned subsidiary, or to make a sub-grant with a portion of the OCS funds, must include a written agreement between the community development corporation and the recipient of the grant funds which contains all of the elements listed in Part B under the appropriate Priority Area.

Applications submitted under Priority Areas 1.1, 1.2, 1.3 and 1.5 must include a complete Business Plan where it is appropriate to the project/venture. An application that does not include a Business Plan where one is appropriate may be disqualified and returned to the applicant.

In some cases a Business Plan may not be required under the Priority Areas. All applicants under the Priority Areas, however, must nevertheless submit the information which is required in Sections 7 through 10, as set forth below.

The Business Plan is one of the major components that will be evaluated by OCS to determine the feasibility of an economic development project. It must be well prepared and address all the major issues noted herein.

The following guidelines show what should be included in order to produce a complete and professional Business Plan which makes an orderly presentation of the facts necessary to be judged responsive to the program announcement.

Because the guidelines were written to cover a variety of possibilities, rigid adherence to them is not possible nor even desirable for all projects. For example, a plan for a service business would not require a discussion of manufacturing nor product design.

The Business Plan should include the following:

1. The business and its industry: This section should describe the nature and history of the business and provide some background on its industry.

a. The Business: As a legal entity; the general business category;

b. Description and Discussion of Industry: Current status and prospects for the industry;

2. Products and Services: This section deals with the following:

a. Description: Describe in detail the products or services to be sold;

b. Proprietary Position: Describe proprietary features if any of the product, e.g. patents, trade secrets;

c. Potential: Features of the product or service that may give it an advantage over the competition;

3. Market Research and Evaluation: This section should present sufficient

information to show that the product or service has a substantial market and can achieve sales in the face of competition;

a. Customers: Describe the actual and potential purchasers for the product or service by market segment.

b. Market Size and Trends: State the size of the current total market for the product or service offered;

c. Competition: An assessment of the strengths and weaknesses of competitive products and services;

d. Estimated Market Share and Sales: Describe the characteristics of the product or service that will make it competitive in the current market;

4. Marketing Plan: The marketing plan should detail the product, pricing, distribution, and promotion strategies that will be used to achieve the estimated market share and sales projections. The marketing plan must describe what is to be done, how it will be done and who will do it. The plan should address the following topics—Overall Marketing Strategy, Packaging, Service and Warranty, Pricing, Distribution and Promotion.

5. Design and Development Plans: If the product, process or service of the proposed venture requires any design and development before it is ready to be placed on the market, the nature and extent and cost of this work should be fully discussed. The section should cover items such as Development Status and Tasks, Difficulties and Risks, Product Improvement and New Products, and Costs.

6. Manufacturing and Operations Plan: A manufacturing and operations plan should describe the kind of facilities, plant location, space, capital equipment and labor force (part and/or full time and wage structure) that are required to provide the company's product or service.

7. Management Team: The management team is the key in starting and operating a successful business. The management team should be committed with a proper balance of technical, managerial and business skills, and experience in doing what is proposed. This section must include a description of: The key management personnel and their primary duties; compensation and/or ownership; the organizational structure; Board of Directors; management assistance and training needs; and supporting professional services.

8. Overall Schedule: A schedule that shows the timing and interrelationships of the major events necessary to launch the venture and realize its objectives. Prepare, as part of this section, a month-by-month schedule that shows the timing of such activities as product development, market planning, sales programs, and production and operations. Sufficient detail should be included to show the timing of the primary tasks required to accomplish each activity.

9. Critical Risks and Assumptions: The development of a business has risks and problems and the Business Plan should contain some explicit assumptions about them. Accordingly, identify and discuss the critical assumptions in the Business Plan and the major problems that will have to be solved to develop the venture. This should include a description of the risks and critical assumptions relating to the industry, the venture, its personnel, the product's market appeal, and the timing and financing of the venture.

10. Community Benefits: The proposed project must contribute to economic, community and human development within the project's target area. A section that describes and discusses the potential economic and non-economic benefits to low-income members of the community must be included as well as a description of the strategy that will be used to identify and hire individuals being served by public assistance programs and how linkages with community agencies/organizations administering the JOBS program will be developed. The following project benefits must be described:

Economic

—Number of permanent jobs that will be created for low-income people during the grant period;
—Number of jobs to be created for low-income people that will have career development opportunities and a description of those jobs;
—Number of jobs that will be filled by individuals on public assistance;
—Ownership opportunities created for poverty-level project area residents;
—Specific steps to be taken to promote the self-sufficiency of program participants.

Other benefits which might be discussed are:

Human Development

—New technical skills development and associated career opportunities for community residents;
—Management development and training.

Community Development

—Development of community's physical assets;
—Provision of needed, but currently unsupplied, services or products to community;
—Improvement in the living environment.

11. The Financial Plan: The Financial Plan is basic to the development of a Business Plan. Its purpose is to indicate the project's potential and the timetable for financial self-sufficiency. In developing the Financial Plan, the following exhibits must be prepared for the first three years of the business' operation:

a. Profit and Loss Forecasts-quarterly for each year;

b. Cash Flow Projections-quarterly for each year;

c. Pro forma balance sheets-quarterly for each year;

d. Initial sources of project funds;

e. Initial uses of project funds; and

f. Any future capital requirements and sources.

Applicable to Priority Area 2.1 Only

Each applicant must include a full discussion of the project including the following information:

—Basic Housing Data for Targeted Area. Information on the number of sub-standard housing units available to low-income people in the target area, deficiencies of the housing units to be repaired, i.e., lack of or inadequate plumbing, upgrading of electrical systems, etc., new construction inventory, property values, rents and mortgage rates. While specific census data may be included, this information must be project specific. Applicants must show that other Federal programs do not exist to address the rehabilitation needs of the targeted area.
—Priorities. Provide a rationale for the strategies and priorities for which OCS support is requested.
—Participant Application Process. A description of the participant application process including: (a) Verification of participant need and income eligibility, (b) proposed diagnostic repair forms and contract bid procedures (where applicable), and (c) completion verification and quality workmanship assurance procedures.
—Types of Work to be Performed. The quantitative and qualitative measures in the work plan should reflect the types of work to be performed, e.g. (a) technical assistance and training for each proposed organization/community; and/or (b) repairs or rehabilitation or construction work, noting which types of work will be done in order to bring properties up to minimum housing standards.

inspection procedures and construction schedules.

Applications proposing to repair or rehabilitate low-income rental housing (see Part B, Priority Area 2.1, regarding restrictions) must state the current rents for the units in question as well as what rents will be charged for the rehabilitated units. Applicants should also state the number of low-income residents who will be helped to purchase or acquire adequate housing.

—Job Creation. Data regarding the number of direct jobs that will be created in the proposed project, noting the number of low-income residents that will be trained and/or placed in these jobs.

—Public-Private Partnership. A description of the degree of involvement by private sector individuals, corporations, and foundations in the implementation of the project and the amount of dollars which will be mobilized.

Applicable to Priority Area 2.2 Only

Each applicant must include a full discussion of how the proposed use of funds will enable low-income rural communities to develop the capability and expertise to establish and maintain affordable, adequate and safe water and waste water systems. Applicants must also discuss how they will disseminate information about water and waste water programs serving rural communities, and how they will better coordinate Federal, State, and local water and waste water program financing and development to assure improved service to rural communities.

Among the benefits that merit discussion under this priority are: The number of rural communities to be provided with technical and advisory services; the number of rural poor individuals who are expected to be directly served by applicant-supported improved water and waste water systems; the decrease in the number of inadequate water systems related to applicant activity; the number of newly-established and applicant-supported treatment systems (all of the above may be expressed in terms of equivalent connection units); the increase in local capacity in engineering and other areas of expertise; and the amount of non-discretionary program dollars expected to be mobilized.

Applicable to Priority Areas 3.0 and 3.1

Each applicant must include a full discussion of the proposed project and how it will address one or more farmworker needs as described in Part B.

Among the benefits which merit discussion under this priority area are: The number of farmworkers who are expected to improve their agricultural skills and thus improve their agricultural employment situation; the number of farmworkers and/or their dependents who will be afforded an opportunity to continue their formal education; the number of farmworkers/families who will receive crisis nutritional relief, emergency health and social services referrals and assistance, and assistance in the development of self-help systems of food production; the number of farmworkers who are expected to gain longer term or permanent private sector employment in areas outside agriculture; the number of farmworkers who will receive help in the areas of housing; the number of housing units to be repaired or rehabilitated; the degree and kind of such help; the amount of non-Discretionary program dollars expected to be mobilized, and the degree of private sector involvement that will be utilized in developing and carrying out projects funded under this announcement.

Part G—Post Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Notice of Grant Award which provides the amount of Federal funds approved for use in the project, the budget period for which support is provided, the terms and conditions of the award, the total project period for which support is contemplated, and the total financial participation from the award recipient.

General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grants, are subject to the provisions of 45 CFR parts 74 and 92.

Grantees will be required to submit quarterly progress and financial reports (SF–269) as well as a final progress and financial report.

Grantees are subject to the audit requirements in 45 CFR parts 74 and 92 and OMB Circular A–128 or A–133. If an applicant will not be requesting indirect costs, it should anticipate in its budget request the cost of having an audit performed at the end of the grant period.

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using appropriated funds for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to submit a declaration setting forth whether payments to lobbyists have been or will be made out of nonappropriated funds and, if so, the name, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their subtier contractors or subgrantees will pay with the nonappropriated funds and (3) to file quarterly up-dates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification. The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or made on or after December 23, 1989. See Attachment H for certification and disclosure forms to be submitted with the applications for this program.

Attachment I indicates the regulations which apply to all applicants/grantees under the Discretionary Grants Program.

Dated: April 16, 1992.

Eunice S. Thomas,

Director, Office of Community Services.

ATTACHMENT A.—1992 POVERTY INCOME GUIDELINES FOR ALL STATES (EXCEPT ALASKA AND HAWAII) AND THE DISTRICT OF COLUMBIA

Size of family unit	Poverty guideline
1	$6,810
2	9,190
3	11,570
4	13,950
5	16,330
6	18,710
7	21,090
8	23,470

For family units with more than 8 members, add $2,380 for each additional member.

POVERTY INCOME GUIDELINES FOR ALASKA

Size of family unit	Poverty guideline
1	$8,500
2	11,480
3	14,460
4	17,440
5	20,420
6	23,400
7	26,380
8	29,360

For family units with more than 8 members, add $2,980 for each additional member.

POVERTY INCOME GUIDELINES FOR HAWAII

Size of family unit	Poverty guideline
1	$7,830
2	10,570
3	13,310
4	16,050
5	18,790

POVERTY INCOME GUIDELINES FOR HAWAII—Continued

Size of family unit	Poverty guideline
6	21,530
7	24,270
8	27,010

For family units with more than 8 members, add $2,740 for each additional member.

BILLING CODE 4130-01-M

ATTACHMENT B

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

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): ☐☐ – ☐☐☐☐☐☐☐

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*):

7. TYPE OF APPLICANT: (*enter appropriate letter in box*) ☐

A. State H. Independent School Dist.
B. County I. State Controlled Institution of Higher Learning
C. Municipal J. Private University
D. Township K. Indian Tribe
E. Interstate L. Individual
F. Intermunicipal M Profit Organization
G. Special District N. Other (Specify) _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (*cities, counties, states, etc.*):

13. PROPOSED PROJECT: 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

Authorized for Local Reproduction

BILLING CODE 4130-01-C

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 and 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..

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.)

BILLING CODE 4130-01-M

ATTACHMENT C

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
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	$	$	$	$	$

Authorized for Local Reproduction

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
Prescribed by OMB Circular A-102

BILLING CODE 4130-01-C

Authorized for Local Reproduction

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).

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.

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

Line 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new application 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.

Attachment D

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 CFR 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.

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 and to 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 River 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

BILLING CODE 4130–01–M

ATTACHMENT E

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee 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 ongoing 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 ten 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 every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. 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).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4130-01-C

Attachment F

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe 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 3-year period preceding this proposal been convicted of or have 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 or otherwise criminally or civilly charged by a governmental entity (Federal, State of local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause of default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification of explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction. "provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "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.

State Single Points of Contact

Alabama

Mrs. Moncell Thornell, State Single Point of Contact, Alabama Department of Economic & Community Affairs, 3465 Norman Bridge Road, Post Office Box 250347, Montgomery, Alabama 36125–0347, Telephone (205) 284–8905

Arizona

Ms. Janice Dunn, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315

Arkansas

Mr. Joseph Gillesbie, Manager, State Clearinghouse, Office of Intergovernmental Service, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 77203, Telephone (501) 371–1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver, Colorado 80203, Telephone (303) 866–2156

Connecticut

Under Secretary, Attn: Intergovernmental Review Coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, Connecticut 06106–4459, Telephone (203) 566–3410

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736–3326

District of Columbia

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, Room 416, District Building, 1350 Pennsylvania Avenue NW., Washington, DC 20004, Telephone (202) 727–9111

Florida

Karen McFarland, Director, Florida State Clearinghouse, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Telephone (904) 488–8114

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street SW., Atlanta, Georgia 30334, Telephone (404) 656–3855

Hawaii

Mr. Harold S. Masumoto, Acting Director, Office of State Planning, Department of Planning and Economic Development, Office of the Governor, State Capitol—Room 406, Honolulu, Hawaii 96813, Telephone (808) 548–5893, FAX (808) 548–8172

Illinois

Tom Berkshire, State Single Point of Contact, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Telephone (217) 782–8639

Indiana

Frank Sullivan, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5610

Iowa

Steven R. McCann, Division for Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281–3725

Kentucky

Debbie Anglin, State Single Point of Contact, Kentucky State Clearinghouse, 2nd Floor Capital Plaza Tower, Frankfort, Kentucky 40601, Telephone (502) 564–2382

Maine

State Single Point of Contact, Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261

Maryland

Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Telephone (301) 225–4490

Massachusetts

State Single Point of Contact, Attn: Beverly Boyle, Executive Office of Communities & Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001

Michigan

Milton O. Waters, Director of Operations, Michigan Neighborhood Builders Alliance, Michigan Department of Commerce, Telephone (517) 373–7111 Please direct correspondence to: Manager, Federal Project Review, Michigan Department of Commerce, Michigan Neighborhood Builders Alliance, P.O. Box 30242, Lansing, Michigan 48909, Telephone (517) 373–6223

Mississippi

Cathy Mallette, State Clearinghouse Officer, Department of Finance and Administration, Office of Policy Development, 421 West Pascagoula Street, Jackson, Mississippi 39203, Telephone (601) 960–4280

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834

Montana

Deborah Stanton, State Single Point of Contact, Intergovernmental Review Clearinghouse, c/o Office of Budget and Program Planning, Capitol Station, Room 202—State Capitol, Helena, Montana 59620, Telephone (406) 444–5522

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, ATTN: John B. Walker, Clearinghouse Coordinator

New Hampshire

Jeffery H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155

New Jersey

Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613 Please direct correspondence and questions to: Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025

New Mexico

Aurelia M. Sandoval, State Budget Division, DFA, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3640, Fax (505) 827–3006

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 116 W. Jones Street, Raleigh, North Carolina 27611, Telephone (919) 733–0499

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Telephone (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698

Oklahoma

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73116, Telephone (405) 843–9770

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277–2656

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734–0493

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773–3212

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676

Texas

Tom Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778

Utah

Utah State Clearinghouse, Office of Planning and Budget, ATTN: Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538–1535

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326

Washington

Marilyn Dawson, Washington Intergovernmental Review Process, Department of Community Development, 9th and Columbia Building, Mail Stop GH–51, Olympia, Washington, 98504–4151, Telephone (206) 753–4978

West Virginia

Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010

Wisconsin

William C. Carey, Federal/State Relations, IGA Relations, 101 South Webster Street, P.O. Box 7864, Milwaukee, Wisconsin 53707, Telephone (608) 266–1741

Please direct correspondence and questions to: William C. Carey, Section Chief, Federal/State Relations Office, Wisconsin Department of Administration, (608) 266–0267

Wyoming

Ann Redman, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Telephone (307) 777–7574

Territories

Guam

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472–2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Patria Custodio/Israel Soto Marrero, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Telephone (809) 727–4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 32 & 33 Kongens Gade, Charlotte Amalie, V.I. 00802, Telephone (809) 774–0750

For OMB Purposes Only, File originated: 9–2–88, "Contacts"

Certification Regarding Lobbying

Certification for Contracts, Grant Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) 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 awarding of any Federal contract, the making of any Federal

grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) 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 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 contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form To Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any 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 commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form To Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date

Attachment I

The following DHHS regulations apply to all applicants/grantees under the Discretionary Grants Program:

Title 45 of the *Code of Federal Regulations:*

Part 16—Procedures of the Departmental Grant Appeals Board
Part 74—Administration of Grants (non-governmental)
Part 74—Administration of Grants (state and local governments and Indian Tribal affiliates):
Sections 74.62(a) Non-Federal Audits
74.173 Hospitals
74.174(b) Other Nonprofit Organizations
74.304 Final Decisions in Disputes
74.710 Real Property, Equipment and Supplies
74.715 General Program Income
Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension form Eligibility for Financial Assistance Subpart F—Drug Free Workplace Requirements
Part 80—Non-discrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 83—Nondiscrimination on the basis of sex in the admission of individuals to training programs
Part 84—Non-discrimination on the Basis of handicap in Programs
Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (**Federal Register**, March 11, 1988)
Part 93—New Restrictions on Lobbying
Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

Checklist for Use in Submitting OCS Grant Applications (Optional)

The application should contain:

1. A completed, *signed* SF–424, "Application for Federal Assistance". The letter code for the priority area (T&TA) should be in the lower right-hand corner of the page;
2. A completed "Budget Information-Non-Construction" (SF–424A);
3. A *signed* "Assurances-Non-Construction" (SF–424A);
4. A Project Narrative beginning with a Table of Contents that describes the project in the following order:
   (a) Need for Assistance
   (b) Work Program
   (c) Significant and Beneficial Impact
   (d) Ability of Applicant to Perform
   (e) Staffing and Resources
5. Appendices including proof of non-profit status, Single Points of Contact comments (where applicable), resumes;
6. A *signed* copy of "Certification Regarding Anti-Lobbying Activities;
7. A completed "Disclosures of Lobbying Activities", if appropriate; and
8. A self-addressed mailing label which can be affixed to a postcard to acknowledge receipt of application.

The application should not exceed a total of 30 pages. It should include one original and four identical copies, printed on white 8½ by 11 inch paper, and be presented in a ring binder.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments D and E.

BILLING CODE 4130-01-M

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

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:	Authorized for Local Reproduction Standard Form - LLL

BILLING CODE 4130-01-C

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 Contribution 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 minutes 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.

[FR Doc. 92–9456 Filed 4–23–92; 8:45 am]

BILLING CODE 4130–01–M

federal register

Friday
April 24, 1992

Part V

Environmental Protection Agency

Department of Transportation

Coast Guard

Designation of Areas and Area Committees Under the Oil Pollution Act of 1990; Notices

ENVIRONMENTAL PROTECTION AGENCY

[SWH-FRL-4041-1]

Designation of Areas and Area Committees Under the Oil Pollution Act of 1990

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

ACTION: Notice.

SUMMARY: The purpose of this notice is to designate Areas for planning purposes and to appoint qualified Federal, State, and local agency personnel as Area Committees to prepare Area Contingency Plans pursuant to section 311(j)(4) of the Clean Water Act (CWA), as amended by the Oil Pollution Act of 1990 (OPA). The OPA, signed into law on August 18, 1990, amends existing provisions of the CWA and creates major new authorities addressing oil spill prevention and response.

DATES: Comments must be received on or before May 26, 1992.

ADDRESSES: Comments should be submitted in triplicate to: Chemical Emergency Preparedness and Prevention Office, Superfund Docket Clerk, Docket Number OPA/AC, room 2427, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ms. Sarah Bauer, Chemical Emergency Preparedness and Prevention Office (OS–120), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. (202) 260–8247.

AUTHORITY: Section 311(j)(4) of the Clean Water Act, 33 U.S.C. 1321(j)(4), as amended by the Oil Pollution Act of 1990 section 4202(b), Public Law 101–380.

BACKGROUND: Under CWA section 311(j)(4)(B), Area Contingency Plans must be developed by Area Committees, under the direction of the Federal On-Scene Coordinator (OSC) for their Area. Under section 311(j)(4)(D), these plans are reviewed and approved by the President.

Pursuant to OPA section 4202(b)(1)(A), the President designates areas for which Area Contingency Plans are established. Through section 1(b) of Executive Order 12777 (56 FR 54757; October 22, 1991), the President delegated to the Administrator of the U.S. Environmental Protection Agency (EPA), responsibility for designating the Areas and appointing the Committees for the "Inland Zone," as defined by the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR 300.5). The U.S. Coast Guard has responsibility for designating Areas and appointing Committees for the Coastal Zone as defined by the NCP.

EPA is currently developing a proposed rulemaking to revise the NCP as required by section CWA section 311(d), as amended. EPA anticipates that in that proposal, the Agency will address the relationship between Area Contingency Plans and the OSC Contingency Plans currently provided for in § 300.210(c)(1) of the NCP.

SUPPLEMENTARY INFORMATION:

Designation of Areas

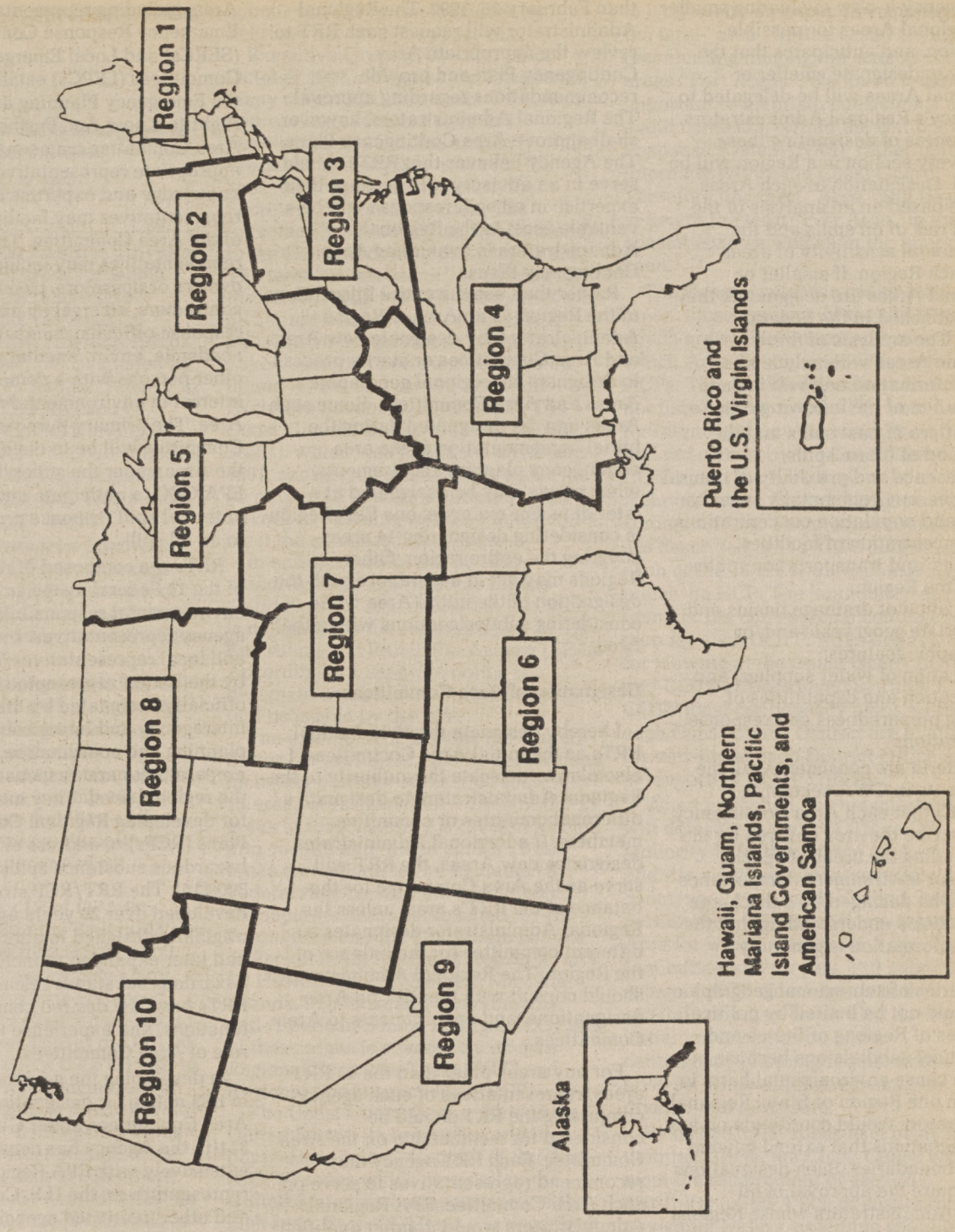
EPA is publishing today's notice to meet the requirement to designate Areas under OPA section 4202(b)(1)(A). Under the existing response and planning framework under the NCP, the territory of the United States is covered by 13 Regional Response Teams (RRTs) and Regional Contingency Plans (RCPs). The zones of the 13 RRTs follow the 10 standard Federal regions except for the following 3 subregional areas that have their own RRT: (1) Puerto Rico and the U.S. Virgin Islands; (2) Alaska; and (3) Hawaii, Guam, Northern Mariana Islands, Pacific Island Governments, and American Samoa (see Figure 1). The inland areas of the 13 RRTs will serve as the designated Areas for the Inland Zone. The U.S. Coast Guard will be issuing a notice to designate Areas for the Coastal Zone. These Coastal Zone Areas will be based on the 48 U.S. Coast Guard Captains of the Port (COTP) areas. The areas covered by COTPs are smaller than the RRT areas and include major river systems associated with the ports.

OPA section 4202(b)(1)(A) also requires that in designating areas, "the President shall ensure that all navigable waters, adjoining shorelines, and waters of the exclusive economic zone are subject to an Area Contingency Plan." EPA believes that its approach for designating Areas for the Inland Zone will most effectively allow the Agency to meet the statutory requirement that all navigable waters and adjoining shorelines be subject to a Plan by initially building upon the basic existing oil spill planning and response structure.

BILLING CODE 6560-50-M

Figure 1

13 REGIONAL RESPONSE TEAM AREAS



LLING CODE 6560-50-C

The Agency is now evaluating smaller or subregional Areas for possible designation, and anticipates that the authority to designate smaller or subregional Areas will be delegated to the Agency's Regional Administrators. In the process of designating these Areas, every section in a Region will be screened. Designation of such Areas would be based on an analysis of the potential risk of oil spills and the environmental sensitivity of areas within each Region. If smaller or subregional Areas are designated, they will be published in the Federal Register. The analysis of these geographic Areas will include site-specific information and will include consideration of the following criteria:

—The pattern of past spills and the likelihood of future spills;
—The presence and proximity of natural resources, environmentally sensitive areas, and population concentrations;
—The concentration of facilities, pipelines, and transportation routes within the Region;
—The location of drainage basins and appropriate geographic and/or topographic features;
—The location of water supplies; and
—The location and capabilities of existing preparedness and response organizations

These criteria are consistent with the requirements in CWA section 311(J)(4)(C) that each Area Contingency Plan "describe the area covered by the plan, including the areas of special economic or environmental importance that might be damaged by a discharge" and with EPA's understanding that the relevant information is generally available.

Boundaries of subregional geographic areas would not be limited by political boundaries of Regions or States and their political subdivisions because oil spills can cause environmental harm in more than one Region or State. Regional Administrators would coordinate on any Area designations that extend beyond Regional boundaries. Such designations would require the approval of all Regional Administrators whose Regions are affected.

RRTs should be involved in both the designation process and plan development process to facilitate long-term coordination between the RRTs and the Area Committees. Likewise, each Area Committee shall consult with the appropriate RRT and address its concerns in developing Area Contingency Plans.

As provided in OPA section 4202(b)(1)(B), Area Contingency Plans were to be submitted to EPA no later than February 18, 1992. The Regional Administrator will request each RRT to review the appropriate Area Contingency Plan and provide recommendations regarding approval. The Regional Administrators, however, shall approve Area Contingency Plans. The Agency believes that RRTs should serve in an advisory role because their expertise in oil spill response will be a valuable asset to the Regional Administrators in evaluating Area Contingency Plans.

Rather than use the entire Inland Zone of the Region as an Area, a Regional Administrator may designate new Areas and Area Committees or start a process to designate subregional geographic Areas and Area Committees. Some such Areas may be designated during the initial implementation of the area contingency planning requirements, while others may be designated at a later date. For example, one EPA Region is considering designating 14 areas covering the entire region. Other Regions may act in accordance with the designation of the initial Area while considering subdesignations within that Area.

Designation of Area Committees

I hereby designate the 13 individual RRTs as the initial Area Committees. I also plan to delegate the authority to the Regional Administrators to designate a different committee or committee members. If a Regional Administrator designates new Areas, the RRT will serve as the Area Committee for the balance of the RRT's area, unless the Regional Administrator designates a different committee for the balance of the Region. The Regional Administrator should consult with the RRT on Area designations, and appointments to Area Committees.

For any areas other than the 13 RRT areas, representatives of each agency comprising the RRT should be considered for membership on the Area Committee. Each RRT agency may recommend representatives to serve on such Area Committee. EPA Regional Administrators would appoint qualified individuals to Area Committees for subregional Areas designated. To facilitate coordination between the two organizations, the Regional Administrator may designate RRT representatives for membership on Area Committees, especially for Federal and State representation.

In addition to any RRT agency representatives, there will be appropriate representatives from each State and from local government in the Area, including representatives of State Emergency Response Commissions (SERCs) and Local Emergency Planning Committees (LEPCs) established under the Emergency Planning and Community Right-to-Know Act. Furthermore, the Area Committee may consult with other appropriate representatives where the knowledge and expertise of these representatives may facilitate the work of the Area Committee. These other representatives may include facility owners or operators, cleanup contractors, emergency planning and response officials, members of academia, environmental groups, and other persons with a demonstrated interest in environmental matters in the Area. The primary purpose of an Area Committee will be to develop a plan for the Area under the supervision of the EPA OSC to anticipate and avoid potential spill response problems prior to an oil spill.

RRTs are composed of representatives of the 14 Federal agencies having broad environmental responsibilities, State agency representatives, Indian tribes, and local representatives (as arranged by the States' representatives). RRTs are officially designated by the NCP for interagency and intergovernmental planning and coordination of preparedness and response actions at the regional level. They are responsible for developing Regional Contingency Plans (RCPs) to address oil and hazardous substance spills (40 CFR 300.115). The RRT/RCP structure was developed over 20 years ago and was originally designed to address oil spills and later expanded to include hazardous substance releases. Hence, RRTs have the desired composition, functions, and experience to fulfill the role of Area Committees.

In developing the guidance provided in this notice for designating Areas and Area Committees under CWA section 311(j), the Agency has consulted extensively with EPA Regional representatives, the U.S. Coast Guard, and other interested agencies. EPA is interested in obtaining public comment on this notice to ensure that it best fulfills statutory objectives and requirements, and to facilitate the public's understanding of how Area Committees will function.

Dated: April 14, 1992.

William K. Reilly,

Administrator.

[FR Doc. 92-9223 Filed 4-23-92; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 91-010]

Oil Pollution Act of 1990; Designating Areas For Area Committees

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The Coast Guard is providing notice of designated areas for which Area Committees are required to conduct local oil spill contingency planning under the Oil Pollution Act of 1990. Other areas will be designated by the Environmental Protection Agency in a separate notice. This division of responsibility reflects the working arrangements between the two agencies under existing national and regional oil spill contingency planning. This notice will permit planning to begin.

FOR FURTHER INFORMATION CONTACT: Pamela M. Pelcovits, Project Manager, Oil Pollution Act Staff, Department of Transportation, U.S. Coast Guard, 2100 Second St., SW., Washington, DC 20593-0001, (202) 267-6403.

SUPPLEMENTARY INFORMATION: The Oil Pollution Act of 1990 (Pub. L. 101-380) (OPA 90) was enacted to reduce oil spills and to improve the nation's preparedness and ability to respond to them. OPA 90 creates a comprehensive prevention, response, liability, and compensation regime for dealing with vessel and facility-generated oil pollution.

Subtitle (b) of title IV of OPA 90 amends section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) (FWPCA) and contains certain stand alone provisions requiring enhanced response systems to clean up oil spills. In particular, section 4202(a) of OPA 90 amends section 311(j) of the FWPCA, to define the role of Area Committees in the contingency planning process and production of Area Contingency Plans (ACPs). Each ACP must include worst case scenarios and lists of equipment and personnel that are available for the removal of worst case spills. In case of an oil spill, an ACP would be implemented in conjunction with the amended National Contingency Plan (NCP), to be developed under section 311(d) of the FWPCA, as amended by section 4201 of OPA 90.

Section 4202(b)(1) of OPA 90 directs the President to designate the areas for which Area Committees (whose members are to be appointed by the President) are to prepare ACPs under amended section 311(j)(4) of the FWPCA. Each Area Committee is to submit an ACP to the President by February 18, 1992, for approval.

Executive Order (EO) 12777 of 22 October 1991, delegates the President's many responsibilities under OPA 90 to appropriate executive agencies. Pursuant to this EO, the authority of the President to designate areas for the "coastal zone" is delegated to the Secretary of Transportation. The Secretary has redelegated this authority to the Commandant, U.S. Coast Guard. The term "coastal zone," is defined in the current NCP (40 CFR 300.5), to mean all United States waters subject to the tide, United States waters of the Great Lakes, specified ports and harbors on inland rivers, and the waters of the Exclusive Economic Zone (EEZ). The Coast Guard's Notice of Intent (56 FR 33481), which was published on 22 July 1991, considered coastal zone areas to be published in a later notice, so that advanced planning could be initiated to meet the mandated deadlines.

In addition, under the EO, the authority to designate areas for the "inland zone," also defined in the NCP, is delegated to the Administrator of the Environmental Protection Agency (EPA). Accordingly, a separate notice to designate areas for the "inland zone" will be issued by the EPA.

The existing NCP divides the United States, its territories, and its possessions including portions of the high seas, into 13 areas of responsibility. Each of the 13 areas of responsibility is divided further into coastal and inland zones. These areas correspond to the 10 standard Federal regions with the exception of the separate areas established for (1) Puerto Rico and the U.S. Virgin Islands of Region II; (2) Alaska of Region X; and (3) Hawaii, Guam, Northern Mariana Islands, Pacific Island Governments, and American Samoa of Region IX. Each of these areas is covered by its own Regional Response Team (RRT) and Regional Contingency Plan (RCP).

The Coast Guard further divides the United States, its territories, and its possessions into 47 Captain of the Port (COTP) zones which cover all of the United States, including portions of the high seas. Each COTP zone is described in the Coast Guard regulations at 33 CFR part 3. Within their respective zones, COTPs and their representatives enforce port safety, security, and marine environmental protection regulations. Each Coast Guard COTP is also the predesignated Federal On-Scene Coordinator (OSC) under the NCP for the coastal portion of a COTP zone.

In the Coast Guard's Notice of Intent (56 FR 33481), published on 22 July 1991, it was indicated that the coastal zone areas would be called "Port Areas" due to a different, and specific meaning of the term "area" for the Coast Guard. In reevaluating naming the coastal zone areas "Port Areas", we found it more important to maintain consistency and avoid confusion within the National Response System (NRS), rather than internally within the Coast Guard. Therefore, the term "Area" will be used in lieu of the term "Port Area" in the coastal zone as well as in the inland zone.

The Coast Guard has designated as areas, those portions of the COTP zones which are within the coastal zone, for which Area Committees will prepare ACPs. The specific Area boundaries are not listed in this notice. The boundaries for inland and coastal zones have been defined clearly by the Coast Guard COTPs and the EPA Regional Administrators through Memoranda-of-Understanding. The precise boundaries are described in the RCPs published for each of the 13 areas of responsibility under the NCP. The boundaries also are found in the current local contingency plan for each COTP. RCPs are available for viewing at the Coast Guard District and COTP Offices listed in Table I. COTP local contingency plans within each Coast Guard District are available for viewing at each District Office and at respective COTP Offices.

When published, the amended NCP will delegate to each COTP as OSC, the authority to further divide an Area, to address significant local requirements or concerns. If an Area is divided, each portion then will constitute a separate Area for which a separate Area Committee will prepare and submit a separate ACP. Some Areas in the coastal zone may be divided during the initial implementation of the contingency planning requirements of OPA 90, while other Areas may be divided at a later date.

By using COTP zones as a basis for defining Areas, the Coast Guard will meet the requirement of section 4202(b)(1) (of OPA 90), to ensure that all navigable waters, adjoining shorelines, and waters of the EEZ, within the coastal zone, are subject to an ACP.

The Coast Guard encourages representatives of State and local government agencies and interested members of the public to contact the Port Operations Department at COTP Offices for further information concerning OPA 90, including coastal zone Area boundaries. The addresses and telephone numbers for COTP Offices are listed in Table I.

Dated: March 11, 1992.

A.E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

Table I.—U.S. Coast Guard District and Captain of the Port Offices

First Coast Guard District, Commander, Coast Guard Bldg., 408 Atlantic Ave., Boston, MA 02210–2209, 617/223–8441

Commanding Officer, Marine Safety Office Portland, 76 Pearl St., Portland, ME 04112–0196, 207/780–3251

Commanding Officer, Marine Safety Office Providence, John O'Pastore Federal Building, Providence, RI 02903–1790, 401/528–5335.

Captain of the Port, Long Island Sound, c/o USCG Group, 120 Woodward Ave., New Haven, CT 06512–3698, 203/468–4464

Commanding Officer, Marine Safety Office Boston, 455 Commercial Street, Boston, MA 02109–1045, 617/223–3025

Captain of the Port, New York, c/o USCG Group, Governors Island, New York, NY 10004–5000, 212/668–7917

Second Coast Guard District, Commander, 1430 Olive Street, St. Louis, MO 63103–2398, 314/539–2655

Commanding Officer, Marine Safety Office St. Louis, Suite 1.215, 1222 Spruce St., St. Louis, MO 63103–2835, 314/539–3091

Commanding Officer, Marine Safety Office Huntington, 1415 6th Ave., Huntington, WV 25701–2420, 304/529–5524

Commanding Officer, Marine Safety Office Louisville, Room 360, 600 Martin Luther King Jr. Place, Louisville, KY 40202–2230, 502/582–5194

Commanding Officer, Marine Safety Office Paducah, P.O. Box 7509, 200 Katterjohn Bldg., 1501 Broadway, Paducah, KY 42002–7509, 502/442–1621

Commanding Officer, Marine Safety Office Memphis, Suite 1301, 200 Jefferson Ave., Memphis, TN 38103–2300, 901/544–3941

Commanding Officer, Marine Safety Office Pittsburgh, Suite 700, Kossman Bldg., Forbes Ave. & Stanwick St., Pittsburgh, PA 15222–1371, 412/644–5808

Fifth Coast Guard District, Commander, Federal Bldg., 431 Crawford St., Portsmouth, VA 23704–5004, 804/398–6638

Commanding Officer, Marine Safety Office Baltimore, Customhouse, 40 S. Gay St., Baltimore, MD 21202–4022, 301/962–5121

Commanding Officer, Marine Safety Office, Philadelphia, 1 Washington Ave., Philadelphia, PA 19147–4395, 215/271–4803

Commanding Officer, Marine Safety Office Hampton Roads, Norfolk Federal Bldg., 200 Granby St., Norfolk, VA 23510–1888, 804/441–3302

Commanding Officer, Marine Safety Office Wilmington, Suite 500, 272 N. Front St., Wilmington, NC 28401–3907, 919/343–4882

Seventh Coast Guard District, Commander, Brickell Plaza Bldg., 909 S.E. 1st Ave., Miami, FL 33131–3050, 305/536–5651

Commanding Officer, Marine Safety Office Miami, 155 S. Miami Ave., Miami, FL 33130–1609, 305/536–5691

Commanding Officer, Marine Safety Office Jacksonville, Room 213, 2831 Talleyrand Ave., Jacksonville, FL 32206–3497, 904/791–2640

Commanding Officer, Marine Safety Office Tampa, 155 Columbia Dr., Tampa, FL 33606–3598, 813/228–2194

Commanding Officer, Marine Safety Office Charleston, 196 Tradd St., Charleston, SC 29401–1899, 803/724–8689

Commanding Officer, Marine Safety Office Savannah, P.O. Box 8191, Savannah, GA 31412–8191, 912/944–4371

Commanding Officer, Marine Safety Office San Juan, P.O. Box S–3666, Old San Juan, PR, 00902–3666, 809/944–2697

Eighth Coast Guard District, Commander, Hale Boggs Federal Bldg., rm. 1331, 501 Magazine St., New Orleans, LA 70130–3396, 504/589–6901

Commanding Officer, Marine Safety Office New Orleans, Tidewater Bldg., 1440 Canal Street, New Orleans, LA 70112–2711, 504/589–4256

Commanding Officer, Marine Safety Office Corpus Christi, P.O. Box 1621, Corpus Christi, TX 78403–1621, 512/888–3162

Commanding Officer, Marine Safety Office Houston, P.O. Box 446, Galena Park, TX 77547–0446, 713/671–5122

Commanding Officer, Marine Safety Office Port Arthur, Federal Bldg., 2875 75th St. & Hwy 69, Port Arthur, TX 77640–2099, 409/723–6506

Commanding Officer, Marine Safety Office Morgan City, rm 232, 800 David Dr., Morgan City, LA, 70380–1304, 504/384–2406

Commanding Officer, Marine Safety Office Galveston, Post Office Bldg. rm. 313, 601 Rosenberg, Galveston, TX 77550–1705, 409/766–3678

Commanding Officer, Marine Safety Office Mobile, P.O. Box 2924, Mobile AL 36652–2924, 205/690–2286

Ninth Coast Guard District, Commander, 1240 E. 9th Street, Cleveland, OH 44199–2060, 216/552–3994

Commanding Officer, Marine Safety Office Buffalo, Rm. 1111, Federal Bldg., 111 West Huron St., Buffalo, NY 14202–2395, 716/846–4168

Commanding Officer, Marine Safety Office Cleveland, 1055 East 9th St., Cleveland, OH 44114–1092, 216/522–4405

Commanding Officer, Marine Safety Office Duluth, Canal Park, Duluth, MI 55802–2352, 218/720–5286

Commanding Officer, Marine Safety Office Milwaukee, 2420 S. Lincoln Memorial Dr., Milwaukee, WI 53207–1997, 414/747–7159

Commanding Officer, Marine Safety Office Toledo, Rm. 501, Federal Bldg., 234 Summit St., Toledo, OH 43604–1590, 419/259–6372

Commanding Officer, Marine Safety Office Chicago, 610 S. Canal St., Chicago, IL 60607–4573, 312/353–3627

Commanding Officer, Marine Safety Office Detroit, Ft. of Mt. Elliot Ave., Detroit, MI 48207–4380, 313/568–9498

Captain of the Port, Grand Haven, c/o USCG Group, 650 Harbor Ave., Grand Haven, MI 49417, 616/847–4504

Captain of the Port, Sault Ste. Marie, c/o USCG Group, Sault Ste. Marie, MI, 49783–9501, 906/372–3210

Eleventh Coast Guard District, Commander, 400 Oceangate, Long Beach, CA 90822–5399, 213/499–5330

Commanding Officer, Marine Safety Office Long Beach, Los Angeles/Long Beach, 165 N. Pico Ave., Long Beach, CA 90802–1096, 213/499–5573

Commanding Officer, Marine Safety Office San Francisco, Bldg. 14 Coast Guard Island, Alameda, CA 94501–5100, 415/437–3082

Commanding Officer, Marine Safety Office, San Diego, 2710 N. Harbor Dr., San Diego, CA 92101–1064, 619/557–5877

Thirteenth Coast Guard District, Commander, Jackson Federal Bldg., 915 Second Ave., Seattle, WA 98174–1067, 206/442–5233

Commanding Officer, Marine Safety Office Portland, 6767 N. Basin Avenue, Portland, OR 97217–3929, 503/240–0317

Commanding Officer, Marine Safety Office Puget Sound, Bldg. 1/Pier 36, 1519 Alaskan Way S., Seattle, WA 98134–1192, 206/286–5530

Fourteenth Coast Guard District, Commander, 9th Floor, room 9153, Prince Kalanianaole Federal Bldg., 300 Ala Moana Blvd., Honolulu, HI 98650–4982, 808/541–2114

Commanding Officer, Marine Safety Office Honolulu, Rm. 1, 433 Ala Moana Blvd., Honolulu, HI 96813–4909, 808/541–2068

Commanding Officer, Marine Safety Office Guam, Box 176, FPO San Francisco, CA, 96630/5000, 671/477–3340

Seventeenth Coast Guard, Commander, P.O. Box 3–5000, Juneau, AK 99802–1217, 907/463–2210

Commanding Officer, Marine Safety Office Juneau, Suite 2A, 2760 Sherwood Ln. Juneau, AK 99801–8545, 907/586–7288

Commanding Officer, Marine Safety Office Valdez, P.O. Box 486, Valdez, AK 99686–0486, 907/835–4791

Commanding Officer, Marine Safety Office Anchorage, Federal Bldg. & U.S. Courthouse Box 17, 701 C St., Anchorage, AK 99513–0065, 907/271–5137

[FR Doc. 92–9272 Filed 4–23–92; 8:45 am]

BILLING CODE 4910–14–M

federal register

Friday
April 24, 1992

Part VI

Department of Education

Independent Living Services for Older Blind Individuals; Notice

DEPARTMENT OF EDUCATION

Independent Living Services for Older Blind Individuals

AGENCY: Department of Education.

ACTION: Notice of proposed priority for fiscal year 1992.

SUMMARY: The Secretary proposes a priority for fiscal year 1992 under the program of Independent Living Services for Older Blind Individuals. The Secretary takes this action to focus Federal financial assistance on States that do not currently have projects funded under this program. The priority is intended to increase the number of States participating in this program.

DATES: Comments must be received on or before May 26, 1992.

ADDRESSES: All comments concerning this proposed priority should be addressed to John Nelson, U.S. Department of Education, 400 Maryland Avenue, SW., room 3326, Switzer Building, Washington, DC 20202–2741.

FOR FURTHER INFORMATION CONTACT: Raymond Melhoff, U.S. Department of Education, 400 Maryland Avenue, SW., room 3315, Switzer Building, Washington, DC 20202–2741. Telephone: (202) 732–1320. Deaf and hearing impaired individuals may call (202) 732–1352 for TDD services.

SUPPLEMENTARY INFORMATION: Grants under the program of Independent Living Services for Older Blind Individuals are authorized by title VII, part C, section 721(a) of the Rehabilitation Act of 1973, as amended. The purpose of this program is to authorize grants to any designated State unit providing independent living services to older blind individuals. These grants are to support projects that provide independent living services for older blind individuals to help correct blindness or visual impairment or adjust to blindness and live more independently in the home or community. This program supports AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by enhancing the skills of older blind individuals to exercise the rights and responsibilities of citizenship.

In fiscal year 1991, the Department funded projects in 28 States to provide independent living services for older blind individuals. Grantees are conducting a wide variety of programs and addressing a broad range of needs. Some projects have established community support networks of service providers, which include area agencies on aging and vocational rehabilitation agencies. Several projects are addressing the needs of older individuals with severe visual impairments by instituting statewide, locally managed equipment loan programs and free adaptive device servicing programs. Other examples include projects that emphasize mental health issues of visually impaired senior citizens, development of volunteer networks, or training consumers who are blind to provide services to other clients under this program.

The Secretary is interested in supporting projects in States that are not currently funded by this program. This priority would increase the number of States providing services to older blind individuals under this program.

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 additional 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.

Priority

Under 34 CFR 75.105(c)(3) and 34 CFR 367.22, 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:

Projects must provide services to older blind individuals in States that do not currently have projects funded under this program.

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 3326, 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.

Applicable Program Regulations

34 CFR part 367.

Program Authority: 29 U.S.C. 796f.

(Catalog of Federal Domestic Assistance Number 84.177A, Independent Living Services for Older Blind Individuals)

Dated: April 2, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92–9555 Filed 4–23–92; 8:45 am]

BILLING CODE 4000–01–M

federal register

Friday,
April 24, 1992

Part VII

Department of the Interior

Bureau of Indian Affairs

Near-Reservation Designations; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Near-Reservation Designations

March 23, 1992.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. Pursuant to 25 CFR 20.1(r) notice is hereby given of the near-reservation designations for certain Indian tribal entities within the contiguous 48 states recognized as eligible to receive services from the United States Bureau of Indian Affairs (BIA).

DATES: These near-reservation designations become effective April 24, 1992.

FOR FURTHER INFORMATION CONTACT: Chief, Division of Social Services, Bureau of Indian Affairs, 1849 C Street, NW., MS 310 SIB, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: In accordance with title 25—Indians, chapter 1—BIA, Department of the Interior, subchapter D—Human Services, part 20—Financial Assistance and Social Services Program (25 CFR 20) 25 CFR 20.1(r), the Assistant Sectetary—Indian Affairs designates the following locales as "near-reservation" areas appropriate for the extension of BIA financial assistance and/or social services.

25 CFR 20—*Financial Assistance and Social Services Program* regulations have full force and effect when extending BIA assistance and/or social services in these designated "near-reservation" locations.

The locales listed below are those designated for this purpose.

Agency: Crow Agency, Crow Agency, Montana
Tribe: Crow Tribe of Montana
"Near-reservation" location: City of Hardin, Montana
Agency: Eastern Area Office, Arlington, Virginia
Tribe: Coushatta Tribe of Louisiana
"Near-reservation" location: Parishes of Allen and Jefferson Davis, Louisiana
Agency: Eastern Area Office, Arlington, Virginia
Tribe: Tunica-Biloxi Indians of Louisiana
"Near-reservation" locations: Parishes of Avoyelles and Rapids, Louisiana
Agency: Ft. Belknap Agency, Harlem, Montana
Tribe: Gros Ventre and Assiniboine Tribes
"Near-reservation" locations: Cities of Harlem and Dodson, Montana
Agency: Ft. Totten Agency, Ft. Totten, North Dakota
Tribe: Devils Lake Sioux Tribe
"Near-reservation" locations: Cities of Devils Lake, Minnewaukan, Oberon and Sheyenne, North Dakota
Agency: Northern Cheyenne Agency, Lame Deer, Montana
Tribe: Northern Cheyenne
"Near-reservation" location: Ashland, Montana
Agency: Wind River Agency, Ft. Washakie, Wyoming
Tribe: Arapahoe Tribe of the Wind River reservation of Wyoming and Shoshone Tribe of the Wind River Reservation of Wyoming
"Near-reservation" locations: Cities of Lander and Riverton, Wyoming
Agency: Olympic Peninsula Agency, Hoquiam, Washington
Tribe: Skokomish Indian Tribe of the Skokomish Reservation of Washington
"Near-reservation" location: Mason County within the State of Washington
Agency: Northern Pueblos Agency, Santa Fe, New Mexico
Tribe: Pueblo of San Juan, New Mexico
"Near-reservation" locations: Communities within five miles from the reservation border, including Alcade, Arroyo Seco, Chamita, Chili, El Llano, El Quique, Espanola, Guachupange, Hernandez, La Mesilla, San Pedro, Santa Cruz and Velarde, New Mexico

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 92-9574 Filed 4-23-92; 8:45 am]

BILLING CODE 4310-02-M

federal register

Friday
April 24, 1992

Part VIII

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing

24 CFR Parts 203 and 204

Single Family FHA Mortgage Insurance Premiums; Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203 and 204

[Docket No. R-92-1512; FR-2936-F-03]

RIN No. 2502-AF17

Single Family FHA Mortgage Insurance Premiums

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule completes the implementation of provisions in the Omnibus Budget Reconciliation Act of 1990 which establish new premium requirements for FHA single family mortgage insurance that are obligations of the Mutual Mortgage Insurance Fund. The final rule creates an exception for streamline refinancing of mortgages originally insured before July 1, 1991.

EFFECTIVE DATE: May 25, 1992.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Acting Director, Office of Insured Single Family Housing, room 9266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-8000, telephone: voice, (202) 708-3046, TDD (202) 708-4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 2103 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508, approved Nov. 5, 1990) is identical to, but supersedes, section 325 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625 approved November 28, 1990). The new law establishes a revised premium payment structure for FHA insured single family mortgages which are obligations of the Mutual Mortgage Insurance Fund. The section includes both permanent and transition provisions.

Permanent Provisions in Section 2103

For FHA-insured single family mortgages executed on or after October 1, 1994, the law requires HUD to establish and collect (1) an up-front mortgage insurance premium (MIP) payment equal to 2.25% of the amount of the principal obligation of the mortgage, of which the unearned portion shall be refunded upon prepayment; and (2) annual periodic premium payments of 0.5% of the remaining insured principal balance for (i) the first 11 years of the mortgage term, where the original principal balance is less than 90% of the appraised value of the property; and (ii) the first 30 years of the mortgage term, where the original principal obligation is at least 90% of the appraised value of the property, except that where the original principal obligation is more than 95% of the appraised value, the annual premium shall be .55% of the remaining insured principal balance.

For purposes of this rule, "remaining insured principal balance" means the average outstanding principal obligation of the mortgage for the year, based on the original amortization schedule. (See § 203.284(g) of today's final rule.)

Transition Provisions in Section 2103

For FHA-insured single family mortgages executed during fiscal years 1991 and 1992 (but on or after the July 1, 1991 effective date of HUD's 1991 interim rule) HUD is required to establish and collect (1) an up-front MIP payment equal to 3.80% of the amount of the principal obligation of the mortgage; and (2) annual periodic premium payments of 0.50% of the remaining insured principal balance for (i) the first 5 years of the mortgage term, where the original principal obligation is less than 90% of the appraised value of the property; (ii) the first 8 years of the mortgage term, where the original principal obligation is at least 90% of the appraised value of the property but no more than 95%; and (iii) the first 10 years, where the original principal obligation is greater than 95%.

For FHA-insured single family mortgages executed during fiscal year 1993 and 1994, HUD shall establish and collect (1) at time of insurance, an up-front payment of 3.0% of the amount of the principal obligation of the mortgage; and (2) annual periodic premium payments of 0.50% of the remaining insured principal balance for (i) the first 7 years of the mortgage term, where the original principal obligation is less than 90% of the appraised value of the property; (ii) the first 12 years, where the original principal obligation is at least 90% of the appraised value of the property but no more than 95%; and (iii) the first 30 years, where the original principal obligation is greater than 95%.

With respect to mortgages covered by section 2103, the Commissioner will refund all of the unearned up-front mortgage insurance premium (UFMIP) upon termination of insurance by voluntary agreement or upon payment in full of the entire principal obligation of the mortgage before the maturity date.

These MIP changes are applicable to mortgages insured under the Mutual Mortgage Insurance Fund, *i.e.*, National Housing Act Sections 203(b), 203(h), 203(i) and 203(n). This includes mortgages insured under section 203(b) pursuant to sections 244 (coinsurance), 245 (graduated payment mortgages and growing equity mortgages) and 251 (adjustable rate mortgages). Excluded are condominium GPMs, GEMs and ARMs which are not insured under section 203(b). Also excluded are any section 203(b) mortgages insured pursuant to sections 223(e) (older declining areas), 238(c) (military impacted areas), 247 (Indian reservations) and 248 (Hawaiian home lands), since those mortgages are not obligations of the Mutual Mortgage Insurance Fund. Because mortgages insured under the Section 204 coinsurance program did not previously have an UFMIP, HUD's regulations at 24 CFR part 204 are revised in this rule to require the UFMIP. The full amount of any such UFMIP will be credited to the Mutual Mortgage Insurance Fund. No portion of the premium amount will be credited to the Annual Coinsurance Reserve established by 24 CFR 204.270.

With respect to charges on open-end advances in connection with previously insured mortgages (24 CFR 203.44) the regulations have been revised at § 203.270 to provide for an insurance charge equal to .50 percent per-annum of the outstanding principal obligation of the open-end advance. This charge is the same as that applying to mortgages subject to a one-time MIP pursuant to § 203.280, and is consistent with the overall policy of charging an annual .50 percent MIP under the new mortgage insurance premium schedule set forth in this rule.

The following tables illustrate the operation of this new premium payment for each fiscal year.

Fiscal year	Up front (percent)	Loan-to-value	Annual premium	Period (years)
1991-1992	3.80	89.99 and under	.50	5
		90.00-95.00	.50	8
		95.01 and over	.50	10
1993-1994	3.00	89.99 and under	.50	7

Fiscal year	Up front (percent)	Loan-to-value	Annual premium	Period (years)
1995–	2.25	90.00–95.00	.50	12
		95.01 and over	.50	30
		89.99 and under	.50	11
		90.00–95.00	.50	30
		95.01 and over	.55	30

For purposes of this rule, the loan value is calculated by dividing the loan amount (excluding the up-front premium) by the appraised value of the property (excluding closing costs).

On May 30, 1991, the Department published an interim rule implementing section 2103 (56 FR 24622). The only significant difference between the interim rule and today's final rule is that the Department has decided, upon reconsideration of the issue, to exempt, from the new mortgage insurance premium requirements, loans insured under the "Streamline Refinance" program. This change is discussed in more detail in the examination of public comments set out elsewhere in this preamble.

It should be noted that on June 18, 1991, a technical correction was made to the May 30, 1991 interim rule (56 FR 27900) relating to the characterization of certain of its effective dates. Aside from the revisions associated with streamline refinancing and the correction of technical errors in the previously published interim rule, the final rule closely resembles the Department's earlier-published rule.

Summary of Public Comments and HUD Responses on Interim Rule

When the Department published its May 30, 1991 interim rule revising the FHA single family mortgage insurance premium structure, the Department asked for public comment on the rule. A total of 482 public comments were received. The great majority (472) were from individuals criticizing the legislation upon which the rule was based, rather than specific provisions of the rule itself. The major criticisms were that (1) the legislation will have a detrimental effect on affordable housing and on the economy; and (2) accurately calculating downpayment and loan amounts is impossible without conducting an appraisal before the sales contract is negotiated.

HUD Response: The increase in the mortgage insurance premium will add approximately $28.00 to the average borrower's monthly housing expense, and for that reason, borrowers will need about $100 more in monthly income to qualify for the mortgage. These increases undoubtedly will result in some borrowers having to defer or delay the purchase of a home, but the Department believes that the additional premium is necessary for new mortgages in order to meet the capital standard mandated by the National Affordable Housing Act of 1990. The method for calculating loan amounts was not changed by the implementation of the risk-based premium.

In addition to these general comments, the following comments and recommendations were received from five national trade associations, several mortgage companies, and individuals addressing particular provisions of the interim rule:

1. *Streamline Refinance Loans.* Four commenters, two national trade associations, a mortgage corporation, and an individual, objected to the failure in the rule to exempt, from the new annual MIP, loans insured under HUD's Streamline Refinance program. The Streamline Refinance program provides for refinancing of insured loans without new mortgage credit underwriting. Typical was the comment of the Mortgage Bankers Association of America:

> We urge the Department to exempt loans insured under the Streamline Refinance program from the new annual MIP required by Section 325. Contrary to HUD's original notification to mortgagees and consumers in Mortgagee Letter 91–1, the interim rule did not provide for such an exemption. Streamline Refinance transactions have very low default risk and effectively reduce the Department's overall portfolio risk. This is because the transactions involve seasoned loans in which the borrower has already demonstrated his/her ability to make timely payments.
>
> Existing FHA mortgagors will find that much of the savings they would earn from a Streamline Refinance will be canceled out by the new annual MIP. On a $100,000 loan they will have to pay an additional $500 in MIP to the Department each year. This will prompt many of the best potential FHA refinance borrowers to transfer from FHA to conventional financing.

HUD Response: Upon reconsideration, the Department agrees that mortgages closed before July 1, 1991 (the effective date for implementation of the risk based premium system) and subsequently refinanced under the streamline refinance program (either with or without a new appraisal) should be exempt from the risk-based premium. The Department's Streamline Refinance program is designed to facilitate the refinancing of mortgages already insured by HUD for mortgagors who are only interested in reducing their monthly payment. A mortgagor cannot refinance to take cash out, cannot significantly increase the outstanding balance and the payments on the mortgage being refinanced, and payments on the mortgage being refinanced must be current. The Department concludes that exempting streamline refinancing mortgages will improve the financial condition of the Mutual Mortgage Insurance Fund, because borrowers will be lowering their interest rates. Accordingly, loans that were closed before July 1, 1991 and subsequently refinanced and closed on or after April 24, 1992, and insured under HUD's Streamline Refinance Program are exempted from the periodic premium requirements in this final rule. They will be subject only to a one-time premium of 3.8 percent of the mortgage amount for all mortgages insured under the Mutual Mortgage Insurance Fund.

The Department is able to make this exception to the statutory premium requirements because section 223(a)(7) of the National Housing Act authorizes refinancing of insured loans "notwithstanding" any of the other provisions of the National Housing Act. Although ultimately only the permanent provisions of section 2103 are made part of the National Housing Act, the Department has concluded that the transition provisions also have the effect of amendments to that Act and therefore may also be superseded under section 223(a)(7).

Accordingly, mortgages that were closed (executed) before July 1, 1991 and are subsequently refinanced under HUD's Streamline Refinance program and closed (executed) on or after April 24, 1992, shall be exempt from the annual MIP charge.

2. *Up-Front Coinsurance Premium.* One national trade association (Mortgage Bankers of America) expressed concern over the rule's treatment of up-front coinsurance premiums.

MBA is very concerned that the Department is requiring all of the premium from the new up-front MIP on Section 244 coinsurance mortgages to be placed in the Mutual Mortgage Insurance Fund (MMIF). Under the coinsurance program, participating lenders share a portion of the insurance risk with the Department. In return for that risk, coinsuring lenders receive a portion of the premium collected.

Since HUD is now collecting an additional premium due to a perceived increase in risk, it follows that coinsuring lenders should receive a portion of the new premium to cover their comparably increased risk. In the rule, HUD does not provide for such a risk-sharing relationship. MBA believes this policy violates the intent of the coinsurance program and should be changed. The regulation should be modified to permit lenders to share a portion of the up-front MIP to cover the same risks that necessitate the higher premium.

HUD Response: In order to meet the capital ratio for the Mutual Mortgage Insurance Fund mandated by the National Affordable Housing Act, the Department believes that it must collect the entire up-front premium on all new mortgages, other than streamline refinancings.

3. *Implementation Timing.* Four national trade associations expressed objections to the timing of HUD's implementation of this rule. Typical was the comment of the NAHB:

The National Association of Home Builders examined the interim rule published in the May 30, 1991 **Federal Register** implementing certain provisions in the Omnibus Budget Reconciliation Act of 1990, which established new premium requirements for FHA single family mortgage insurance. The rule was made effective for all loans closed on or after July 1, 1991.

The new "Single Family Mortgage Insurance Premium" rule will require borrowers to pay a ½% annual premium in addition to the existing up-front premium. Our concern is not the amount of the additional premium, per se. Rather, it is the fact that the rule went into effect with only 30 days notice and impacted all loans in the pipeline that had not closed by June 30, 1991. NAHB believes that HUD did not give the industry and the homebuying public sufficient time to absorb this change without disrupting cases in the pipeline. Borrowers who were approved prior to the effective date based on one set of anticipated payments are now required to pay up to an additinal $45 per month. While we understand that no previously approved case will be disqualified because of an increased mortgage insurance premium, some buyers may opt not to proceed with their purchase—obviously, a negative impact on these buyers and the economy.

HUD Response: The Department was aware of the effect that the changes would have on mortgages in the pipeline and tried to mitigate the impact as much as possible. Most mortgagees were aware of the impact before the actual implementation date and the Department knows of no serious disruptions in any lender's pipeline.

4. *Actuarial Soundness of the Mutual Mortgage Insurance Fund.* One national trade organization (the Mortgage Bankers Assoication of America) raised this issue:

MBA does not believe that the changes to FHA implemented by the Department will achieve the goals of the 1990 Act. Section 332 of the Act requires the Department to evaluate the success of the recent FHA program changes, including the new annual MIP. The section enumerates several specific goals and requires the Department to provide status reports to Congress.

The MIP interim rule was implemented in tandem with an increase in the amount of cash borrowers must pay at closing. MBA's analysis finds that 100,000 borrowers a year will not be able to qualify for an FHA loan due to these changes. A significant number of these will not be able to qualify solely because of the impact of the new MIP. The MIP's impact is very similar to the impact of an increase of .5 percent in interest rates. A recent study by the Census Bureau indicates that an increase of .5 percent in interest rates adds 411,000 families nationwide to the ranks of those who cannot afford a median-priced home.

Of even more consequence to the future health of the MMIF, MBA estimates an additional 150,000 borrowers a year will decide against FHA financing in favor of conventional loans. This is because the 1990 Act makes FHA less attractive to the lowest risk consumers. We are already seeing FHA's share of the market erode as conventional financing increases. From 95,165 in May, the number of new FHA applications has dropped steadily to 76,875 in June, and an estimated 68,000 in July (based on the first half of the month).

MBA respectfully urges the Department to begin to undertake analysis of these issues at the earliest possible time. Only with the proper balance of high- and low-risk loans can FHA continue to operate without taxpayer assistance.

HUD Response: Applications for the single family programs were at a seasonally adjusted level of 850,000 at the end of December, 1991. The total of single family applications received in FY 1991 was 885,000. This represents a small drop in FHA applications, but nothing like the decrease suggested by the commenter. The Department has seen no evidence that would substantiate the claims made by the Mortgage Bankers Association of America, particularly since the reforms have been in place for less than nine months.

5. *Mortgage Insurance Premium Structure.* One national trade association raised this issue:

The National Association of Realtors is concerned about the new mortgage insurance premium structure because it does not allow for the up-front premiums to vary with respect to the term of the loan and whether the MIP is financed or paid in cash as the existing premium structure does.

Our Association believes the existing premium structure correctly reflects differences in risk and that the new structure could be similarly applied. The current premium schedule recognizes that less risk is associated with shorter term mortgages and with transactions where borrowers have invested more cash. We believe that HUD should properly account for different levels of risk and price them accordingly.

HUD Response: The Department has been studying these issues and has decided to implement a different premium structure for mortgages that are historically less risky than thirty-year montages. In a separate rulemaking already underway, HUD is planning to propose a lesser premium for fifteen-year mortgages, which build equity faster and therefore carry less risk.

Other Matters

Effective Date

The Department finds that there is good cause to make this rule effective at the earliest feasible date. This rule relieves a regulatory burden on mortgagors seeking to refinance certain existing FHA insured mortgages, and it is in the public interest to provide for the easing of the costs and restrictions applicable to those refinancing mortgages at the earliest possible time. However, under the legislative review statute, 42 U.S.C. 3535(o)(4), the rule must wait for 30 days after its publication before it may become effective. The Department is therefore providing that the rule will become effective on May 1992, but applicable to streamline refinancing mortgages executed on or after April 24, 1992.

Executive Order 12291

This rule constitutes a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it would, as defined by that order, have an annual effect on the economy of $100 million or more. Accordingly, a regulatory impact analysis (RIA) was prepared at the time the interim rule was promulgated, and that analysis has been revised to reflect changes in the rule announced in today's document. The RIA is available for review and inspection in room 10276, Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

Regulatory Flexibility

In approving this rule for publication, the Secretary has certified, in accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), that this rule does not have a significant economic impact on a substantial number of small entities. The rule implements a specific congressional mandate that revises the premium structure for single family FHA mortgage insurance. Although the changes made may be significant for some homebuyers, they are the result of thoroughly debated policy enacted by the Congress. The effects of the rule are the result of legislation and there are no means available to the Department to alter their impact, or to vary its applicability to small entities.

Environmental Policy

The subject matter of this rule is categorically excluded from the NEPA requirements of 24 CFR part 50. The rule involves the establishment of premium rates, a cost determination that does not constitute a development decision that affects the physical condition of specific project areas or building sites. See 24 CFR 50.20(l).

Semiannual Agenda of Rules

This rule was listed as sequence number 1405 in the Department's Semiannual Agenda of Regulations published on October 21, 1991 (56 FR 53380, 53408) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

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 will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. The rule is limited to revising certain specific premium payment requirements in connection with FHA mortgage insurance. The revisions are mandated by statute and do not alter the established roles of HUD, the States 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 potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule involves requirements for payment of premiums on FHA insured mortgages. The changes from the existing premium structure are specifically mandated by the Congress and reflect its effort to ensure the financial soundness of the Mutual Mortgage Insurance Fund while, to the maximum extent feasible, continuing FHA program affordability for first time homebuyers.

The Catalog of Federal Domestic Assistance program number(s) are 14.117, 14.112, 14.121, 14.122, 14.132, and 14.133.

List of Subjects

24 CFR Part 203

Hawaiian natives, Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and record keeping requirements, Solar energy.

24 CFR Part 204

Mortgage insurance.

Accordingly, 24 CFR parts 203 and 204 are amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for 24 CFR part 203 is revised to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b; 42 U.S.C. 3535(d). Subpart C is also issued under 12 U.S.C. 1715u.

2. Section 203.18c is revised to read as follows:

§ 203.18c One-time or up-front mortgage insurance premium excluded from limitations on maximum mortgage amounts.

After determining any maximum insurable mortgage amount under the provisions of this subpart, the maximum insurable amount of any mortgage may be increased by the amount of any one-time or up-front mortgage insurance premium that will be financed as part of the mortgage.

3. Section 203.259a is revised to read as follows:

§ 203.259a Scope.

(a) The Commissioner shall charge a one-time MIP pursuant to § 203.280 for mortgages that:

(1) Are insured pursuant to § 203.43(c) (if the mortgage to be refinanced was executed prior to July 1, 1991 and the new mortgage is executed on or after April 24, 1992); or insured pursuant to § 203.43i; or

(2)(i) Are obligations of the Mutual Mortgage Insurance Fund under this part (except insured open-end advances as provided by § 203.270);

(ii) Are insured pursuant to: (A) An application for a conditional commitment received on or after September 1, 1983; or

(B) An application for mortgage insurance endorsement under the single family Direct Endorsement program as provided in § 203.255, where the property appraisal report is signed by the mortgagee's approved underwriter on or after September 1, 1983; and

(iii) Are executed before July 1, 1991.

(b) Except as provided in § 203.284(h), the Commissioner shall charge an up-front MIP pursuant to § 203.284 for mortgages that are executed on or after July 1, 1991 that are obligations of the Mutual Mortgage Insurance Fund.

(c) The periodic MIP provisions of §§ 203.260 through 203.268 shall not apply to mortgages referred to the paragraph (a) of this section, nor shall they apply to mortgages to which the provisions of § 203.284 apply.

4. Paragraph (c) § 203.270 is revised to read as follows:

§ 203.270 Open-end insurance charges.

* * * * *

(c) *Payment of charge for mortgages with one-time or up-front MIP.* In the case of a mortgage with a one-time or up-front MIP pursuant to § 203.280 or § 203.284, the insurance charge shall be in an amount equal to ½ percent per annum of the outstanding principal obligation of the open-end advance. Sections 203.260 through 203.268 shall apply to the open-end charge on a mortgage with a one-time or up-front MIP, except that all references to amortization dates shall refer to amortization dates of the open-end advance, references to MIP shall refer to the open-end insurance charge, and references to outstanding principal obligation of the mortgage shall refer to outstanding principal obligation of the open-end advance.

* * * * *

5. Subpart B of 24 CFR Part 203 is amended by revising § 203.284 and the undesignated center heading preceding it to read as follows:

Calculation of Mortgage Insurance Premium on or After July 1, 1991

§ 203.284 Calculation of up-front and annual MIP on or after July 1, 1991.

(a) *Permanent provisions.* Any mortgage executed on or after October 1, 1994, that is an obligation of the Mutual Mortgage Insurance Fund shall be subject to the following requirements:

(1) *Up-front.* The Commissioner shall establish and collect a single premium payment in an amount equal to 2.25

percent of the amount of the original insured principal obligation of the mortgage. Upon payment in full of the principal obligation of a mortgage prior to the maturity date of the mortgage or upon termination of insurance by voluntary agreement, the Commissioner shall refund all the unearned premium charges paid on the mortgage pursuant to paragraph (a)(1) of this section.

(2) *Annual.* In addition to the premium under paragraph (a)(1) of this section, the Commissioner shall establish and collect annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance as defined in paragraph (g) of this section (excluding the portion of the remaining balance attributable to the premium collected under paragraph (a)(1) of this section) for the following periods:

(i) For any mortgage involving an original principal obligation (excluding any premium collected under paragraph (a)(1) of this section) that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 11 years of the mortgage term.

(ii) For any mortgage involving an original principal obligation (excluding any premium collected under paragraph (a)(1) of this section) that is greater than or equal to 90 percent of such value, for the lesser of the mortgage term or the first 30 years of the mortgage term; except that for any mortgage involving an original principal obligation (excluding any premium collected under paragraph (a)(1) of this section) that is greater than 95 percent of such value, the annual premium collected during the period determined under this clause shall be in an amount equal to 0.55 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under paragraph (a)(1) of this section).

(b) *Transition provisions.* Mortgage insurance premiums on mortgages executed during fiscal years 1991 through 1994 that are obligations of the Mutual Mortgage Insurance Fund shall be subject to the following requirements:

(1) *1991 and 1992*—For mortgages executed during fiscal years 1991 and 1992 but on or after July 1, 1991 the Commissioner shall establish and collect the following premiums:

(i) *Up-front*—A single premium payment in an amount equal to 3.80 percent of the amount of the original insured principal obligation of mortgage.

(ii) *Annual*—In addition to the premium under paragraph (b)(1)(i) of this section, annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under paragraph (b)(1)(i) of this section) for any mortgage involving an original principal obligation (excluding any premium collected under paragraph (b)(1)(i) of this section) that is—

(A) Less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 5 years of the mortgage term;

(B) Greater than or equal to 90 percent of such value, but equal to or less than 95 percent of such value, for the first 8 years of the mortgage term; and

(C) Greater than 95 percent of such value, for the first 10 years of the mortgage term.

(2) *1993 and 1994*—For mortgages executed during fiscal years 1993 and 1994 the Commissioner shall establish and collect the following premiums:

(i) *Up-front*—A single premium payment in an amount equal to 3.00 percent of the amount of the original insured principal obligation of mortgage.

(ii) *Annual*—In addition to the premium under paragraph (b)(2)(i) of this section, annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under paragraph (b)(2)(i) of this section) for any mortgage involving an original principal obligation (excluding any premium collected under paragraph (b)(2)(i) of this section) that is—

(A) Less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 7 years of the mortgage term;

(B) Greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 12 years of the mortgage term; and

(C) Greater than 95 percent of such value, for the lesser of the mortgage term or the first 30 years of the mortgage term.

(c) *Refunds.* With respect to any mortgage subject to premiums under this section, the Commissioner shall refund all of the unearned premium charges paid on a mortgage pursuant to paragraph (b)(1)(i) or (b)(2)(i) of this section, upon termination of insurance by voluntary agreement or upon payment in full of the principal obligation of the mortgage before the maturity date.

(d) *Payment of annual MIP.* The full annual MIP collectible by the Commissioner under this section shall be due on the anniversary date of the beginning of amortization and payable not later than ten days after such date even if not collected by the mortgagee from the mortgagor.

(e) *Mortgagee's late charge and interest.* Annual MIP which is remitted to the Commissioner after the payment date prescribed by paragraph (d) of this section shall include a late charge of four percent of the amount paid. In addition to this late charge the mortgagee shall pay interest on any annual MIP which is remitted to the Commissioner more than 20 days after the payment date prescribed in paragraph (d) of this section. Such interest rate shall be paid at a rate set in conformity with the Treasury Fiscal Requirements Manual.

(f) *Applicability of other sections.* The provisions of §§ 203.261, 203.266, §§ 203.267, 203.268, 203.280 and 203.282 are applicable to mortgages subject to premiums under this section.

(g) *Definition.* As used in this section the term *remaining insured principal balance* means the average outstanding principal obligation of the mortgage for the first year of amortization, or for a 12-month period preceding a subsequent anniversary date of the beginning of amortization.

(h) *Exception for streamline refinance.* This section shall not apply to any mortgage insured pursuant to § 203.43(c) if the mortgage to be refinanced was executed before July 1, 1991 and the new mortgage is executed on or after April 24, 1992. This exception does not have the effect of exempting streamline refinancing mortgages from the requirement that a one-time MIP be paid in accordance with § 203.259a(a).

PART 204—COINSURANCE

6. The authority citation for 24 CFR part 204 is revised to read as follows:

Authority: 12 U.S.C. 1715z–9, 1715b; 42 U.S.C. 3535(d).

7. Section 204.260 is revised to read as follows:

§ 204.260 Mortgage insurance premiums for coinsured mortgages.

The provisions of §§ 203.260 through 203.268, or the provisions of § 203.284, as appropriate, concerning mortgage insurance premiums with respect to mortgages insured under 203(b) of the National Housing Act, apply to mortgages covering one- to four-family dwellings to be insured under this part.

8. The undesignated center heading immediately before § 204.270 and paragraph (a) of § 204.271 are revised to read as follows:

Annual Mortgage Insurance Premiums and Coinsurance Reserve

* * * * *

§ 204.271 Credits to reserve.

(a) There shall be credited to each Annual Coinsurance Reserve on the date of receipt of an annual mortgage insurance premium, as follows: 28 percent of the initial (annual) MIP, 23 percent of the first annual MIP, 19 percent of the second annual MIP, and 15 percent of the third annual MIP.

* * * * *

9. Subpart B of 24 CFR part 204 is amended by revising § 204.276 and the undesignated center heading preceding it to read as follows:

Up-Front Premiums

§ 204.276 Up-front premiums.

The full amount of all up-front premiums collected pursuant to the provisions of § 203.284 on mortgages insured under this part shall be credited to the Mutual Mortgage Insurance Fund. No portion of such amount shall be credited to the Annual Coinsurance Reserve established by § 204.270.

Dated: April 13, 1992.

Arthur J. Hill,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 92–9520 Filed 4–23–92; 8:45 am]

BILLING CODE 4210–27–M

federal register

Friday
April 24, 1992

Part IX

Department of the Treasury

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations; Final Rule

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Cuban Assets Control Regulations, 31 CFR part 515 (the "Regulations"), to prohibit entry into any U.S. port of any vessel carrying passengers or goods from or to Cuba, or goods in which Cuba or a Cuban national has an interest. In addition, § 515.533 is amended to eliminate authorization for any exportation to such vessels under General License SHIP STORES, 15 CFR 771.9. Further, § 515.560 is amended to announce the policy of the availability of specific licenses to authorize carrier service providers to carry humanitarian package mail to Cuba. This rule is issued to implement the Statement of the President on April 18, 1992, and instructions to the Department of the Treasury to effect these changes in the Regulations.

EFFECTIVE DATE: This rule is effective on April 23, 1992.

FOR FURTHER INFORMATION CONTACT: John T. Roth, Chief of Policy Planning and Program Management (tel.: 202/535/9445), Steven I. Pinter, Chief of Licensing (tel.: 202/535–9449), or William B. Hoffman, Chief Counsel (tel.: 202/535–6020), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: On April 18, 1992, President Bush issued a statement, which, among other things, called for increased sanctions to further isolate Cuba. The President instructed the Treasury Department to issue regulations that will prohibit the entry into U.S. ports of vessels that are engaged in trade with Cuba. A new section is added at § 515.207 which implements that instruction by prohibiting the entry of any vessel into a U.S. port if the vessel is carrying goods or passengers to or from Cuba or any goods in which Cuba or a Cuban national has an interest. In addition, § 515.533 is amended to exclude from its authorization exports to vessels carrying goods or passengers to or from Cuba, or carrying goods in which Cuba or a Cuban national has an interest, under General License SHIP STORES, 15 CFR § 771.9, concerning the exportation of bunker fuel, provisions and supplies to a vessel in a U.S. port.

The President also instructed the Treasury Department to take the steps necessary to begin issuing licenses to permit shipment of humanitarian package mail on Miami/Havana air charter services. At present, entities holding licenses to provide carrier service, issued pursuant to § 515.560, are restricted from carrying any cargo other than accompanied baggage and informational material. This section is amended to permit humanitarian mail packages to be carried as cargo under certain limited circumstances. Such cargo shall be limited to food, medicine, or clothing, up to a value of $100 per shipment per month by any donor to any donee. Pursuant to licenses issued under this statement, carrier service providers may not pay more than a total of $5 per pound to Cuba or a Cuban national for duty, entry, delivery or other services related to any such shipment.

Because the Regulations involve a foreign affairs functions, Executive Order 12291 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

List of Subjects in 31 CFR Part 515

Administrative practice and procedure, Cuba, Exports, Foreign Trade, Travel restrictions.

For the reasons set forth in the preamble, 31 CFR Part 515 is amended as follows:

PART 515—CUBAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 515 continues to read as follows:

Authority: 50 U.S.C. App. 5, as amended; 22 U.S.C. 2370(a); Proc. 3447, 27 FR 1085, 3 CFR 1950–1963 Comp. p. 157; E.O. 9193, 7 FR 5205, 3 CFR 1938–1943 Cum. Supp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR 1943–1948 Comp., p. 748.

Supbart B—Prohibitions

2. Section 515.207 is added to read as follows:

§ 515.207 Entry of vessels engaged in trade with Cuba.

Except as specifically authorized by the Secretary of the Treasury (or any person, agency or instrumentality designated by him), by means of Regulations, rulings, instructions, licenses or otherwise, no vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban National has an interest may enter a U.S. port.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

3. Section 515.533 is amended by redesignating paragraph (b) as (c) and adding a new paragraph (b) to read as follows:

§ 515.533 Transactions incident to exportations to designated countries.

* * * * *

(b) This section does not authorize any exportation under General License SHIP STORES, 15 CFR 771.9, to any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest.

* * * * *

4. Section 515.560(k) is revised to read as follows:

§ 515.560 Certain transactions incident to travel to and within Cuba.

* * * * *

(k) Carriage to or from Cuba of any merchandise, cargo, or gifts, other that those permitted to individual travelers as accompanied baggage, must be authorized by specific license issued pursuant to this part.

* * * * *

Dated: April 20, 1992.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: April 21, 1992.

Peter K. Nunez,

Assistant Secretary (Enforcement).

[FR Doc. 92–9788 Filed 4–23–92; 9:16 am]

BILLING CODE 4810–25–M

Reader Aids

Federal Register

Vol. 57, No. 80

Friday, April 24, 1992

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202-523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3447
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, APRIL

10978-11260.....1
11261-11424.....2
11425-11552.....3
11553-11670.....6
11671-11904.....7
11905-12176.....8
12177-12402.....9
12403-12694.....10
12695-12862.....13
12863-12988.....14
12989-13266.....15
13267-13622.....16
13623-14320.....17
14321-14474.....20
14475-14636.....21
14637-14790.....22
14791-15000.....23
15001-15216.....24

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
305.....13667
425.....14669

3 CFR

Proclamations:
6418.....12693
6419.....12863
6420.....12989
6421.....13265
6422.....13621

Executive Orders:
12438 (Revoked by EO 12797).....11671
12543 (See EO 12801).....14319
12794.....11417
12795.....11421
12796.....11423
12797.....11671
12799.....12401
12800.....12985
12801 (See FAA final rule of April 16).....14319, 14472
12802.....14321

Administrative Orders:
Presidential Determinations:
No. 92-19 of March 16, 1992.....11553
No. 92-20 of April 3, 1992.....13623
No. 92-21 of April 10, 1992.....12865

Memorandum:
March 20, 1992.....11554

4 CFR

Ch. III.....14148

5 CFR

430.....14637
451.....14637
531.....12403
536.....12403
540.....14637
550.....12403
553.....12405
735.....11800
890.....14323
2633.....11800
2634.....11800
2638.....11886
2641.....11673

Proposed Rules:
532.....11586
735.....11586
890.....13667

7 CFR

2.....11261
54.....11425
272.....11218
274.....11218
276.....11218
277.....11218
278.....11218
301.....10973
318.....14475
319.....10974
354.....14475
718.....14456
719.....14456
800.....11427
981.....10976
1240.....11262
1413.....12406, 14325, 14326, 15001
1414.....14456
1421.....12406
1427.....14326
1455.....12410
1901.....11555
1924.....12991
1940.....11555
1951.....11555
1980.....12991

Proposed Rules:
28.....14492
29.....14669
302.....15033
354.....14498
1001.....11276
1002.....11276
1413.....11588

8 CFR

3.....11568
103.....11568
204.....14791
214.....10978, 12177, 12179
242.....11568
251.....10978
258.....10978
292.....11568

9 CFR

91.....10978, 15001
92.....12190
94.....15002

Proposed Rules:
317.....14499
320.....14499
327.....13053
381.....14499

10 CFR

170.....13625
171.....13625
1021.....15122

Proposed Rules:
20.....14500

50.....14514, 15034
61.....14500
100.....11691

11 CFR

100.....11262
104.....11262
106.....11137

Proposed Rules:

102.....13056
110.....13054, 13056

12 CFR

34.....12190
202.....12202
211.....12992
225.....12992, 13002
263.....12992
265.....12992
361.....15004
500.....14329
516.....14329
543.....14329
544.....14329
545.....14329
546.....14329
550.....14329
552.....14329
558.....14329
559.....14329
563.....14329
563b.....14329
563f.....14329
566.....14329
567.....14329
571.....14329
574.....14329
579.....14329
584.....14329
613.....13625
556.....12203
563.....12695
564.....12698
567.....12706
571.....12695
932.....12428
941.....12428
1102.....10979

Proposed Rules:

3.....12214, 12218
5.....12222
11.....12222
16.....12222
208.....14362
225.....14362
230.....12735
325.....11005, 11010
337.....11442
545.....12226, 12760
563.....12226
567.....12761
571.....12760
934.....11014
1102.....11017

13 CFR

120.....10983
121.....14638
122.....13267
305.....11674

Proposed Rules:

121.....14518

14 CFR

1.....11575
11.....11575
21.....12867, 13003
25.....13003
29.....12867
39.....10985, 11137, 12868, 12869, 12963, 13004–13008, 13639, 13641, 14751, 14793, 15006–15011
45.....11575
61.....11575
65.....11575
71.....10986, 11575, 11576, 11675, 12871, 14475, 14476
75.....11575
91.....11575, 14472
93.....11575
97.....11676, 11678, 14477, 14479
101.....11575
103.....11575
105.....11575
121.....11575
127.....11575
135.....11575
137.....11575
139.....11575, 15162
171.....11575
382.....12872

Proposed Rules:

21.....11691, 11693, 12242, 13058, 13061
23.....11691, 12242
25.....11693, 13058, 13061
39.....11023, 11352, 11589, 11691, 11797, 12467, 12888, 13062, 13325, 13669, 13671, 14366, 14368, 14518, 14751, 14799–14801, 15036
71.....11698–11701, 13672, 14520–14523, 14670
73.....12889
107.....12396
108.....12396

15 CFR

770.....11576
785.....11576

Proposed Rules:

Ch. IX.....14524

16 CFR

305.....11680

17 CFR

30.....10987
140.....12873

Proposed Rules:

150.....12766

18 CFR

271.....13009
284.....13267

Proposed Rules:

101.....13064
154.....13673
157.....13673
201.....13673
284.....13673

19 CFR

4.....13018
101.....15013
141.....10988
151.....10988

20 CFR

655.....10989

Proposed Rules:

660.....14803

21 CFR

5.....12875
14.....14350
81.....11797
172.....12709
176.....11797
177.....11797
178.....10989, 11681
184.....11797
312.....13244
510.....11682, 12711
522.....12711
546.....12711
556.....12711
558.....11682, 12712, 14639
606.....11263, 12862
812.....12875

Proposed Rules:

5.....11277
20.....11277
100.....11277
101.....11277, 12773
105.....11277
130.....11277
314.....13234
601.....13234
821.....12376
1301.....15037
1304.....15037
1308.....11447

22 CFR

Proposed Rules:

121.....12774, 14671
1101.....14674

23 CFR

771.....12411

24 CFR

70.....14754
201.....12715
203.....12715, 15208
204.....15208
221.....14754
231.....14754
232.....14754
234.....12715
242.....14754
570.....14754
571.....11832
576.....11429
750.....11263
880.....14754
881.....14754
882.....14754
883.....14754
884.....14754
885.....14754
886.....14754
889.....14754
890.....14754
905.....14754, 15014
941.....14754
961.....14754
968.....14754

Proposed Rules:

50.....13592
55.....13592
200.....13592
203.....13592
204.....13592
812.....12686
882.....12686
887.....12686
912.....12686
990.....11448

25 CFR

502.....12382

26 CFR

1.....10992, 11440, 12208, 12411, 13019, 13027, 14794
20.....11264
25.....11264
31.....13028
35a.....13028
301.....11264, 13028, 13035, 15014–15016
602.....10992, 11264, 12208, 13028

Proposed Rules:

Ch. I.....11277
1.....11024, 12244, 13066, 13676, 13680, 14369, 14371, 14803, 14804, 15038
40.....13067
49.....13067
301.....14804
602.....11024

27 CFR

Proposed Rules:

9.....14681

28 CFR

14.....13320
75.....15017
79.....12428

Proposed Rules:

37.....14630

29 CFR

102.....12876
507.....10989
1613.....11430
1614.....12634
1910.....12717
2610.....13040
2622.....13040
2644.....13041
2676.....11652, 13042

Proposed Rules:

102.....11452
402.....14244
403.....14244
Ch. XIV.....11455
1614.....12663
1640.....14630
2610.....12666

30 CFR

202.....13320
206.....12376, 13320
207.....13320
700.....12461
904.....14796
914.....14350
916.....12717, 12718
917.....13043
931.....12720
935.....12723, 12727
943.....13643
950.....12731

Proposed Rules:

917.....12775, 12776, 14818
920.....13680, 13682, 14820
935.....12777–12782

936.....12784
938.....12785
944.....13684, 14821
948.....12790

31 CFR

316.....14274
332.....14274
342.....14274
351.....14274
352.....14274
515.....15216

Proposed Rules:

357.....12244

32 CFR

626.....11366
627.....12604
706.....11266, 14355, 14356

Proposed Rules:

312.....12891
619.....11376

33 CFR

26.....14483
100.....11577, 14639
110.....11578
117.....11578, 11579, 12877, 13321, 13644, 13645, 14642, 14643
165.....11431, 11683, 13413, 13645, 14486

Proposed Rules:

100.....12266, 12557
110.....11455, 12266, 12557, 12891
117.....11591, 11592, 11702, 13685, 13686
162.....14682
164.....12378
165.....12266, 12557

34 CFR

222.....12463
309.....14314
315.....14314
324.....14314
326.....14314
327.....14314
332.....14314
338.....14314
345.....14314
380.....14314
722.....14960

35 CFR

Proposed Rules:

133.....13067

38 CFR

1.....00000
4.....11352
21.....14488, 15022

Proposed Rules:

1.....15046
21.....15047
36.....13068

39 CFR

111.....14357

Proposed Rules:

111.....11593, 12893, 13327, 14525

40 CFR

52.....15026
61.....11686
80.....13046
86.....13046
122.....11394
180.....10996, 14644
271.....15029
272.....11580
600.....13046
761.....13322

Proposed Rules:

52.....12791, 12901–12906, 13498, 13687
58.....11458
79.....13168
80.....13220, 13416
82.....14764
86.....13220
180.....11056, 13069–13073
455.....12560
600.....13220
763.....11364
799.....12908, 14371

41 CFR

Proposed Rules:

Ch. 101.....12286
Ch. 105.....12286
Ch. 201.....12286
Ch. 301.....12286
Ch. 302.....12286
Ch. 303.....12286
Ch. 304.....12286

42 CFR

59.....13046
412.....13046

44 CFR

64.....11687
81.....11267

46 CFR

170.....11267
249.....14358
381.....13046

Proposed Rules:

35.....12378
70.....11058
72.....11058
552.....11703
572.....14551

47 CFR

2.....11689
15.....13047
22.....13646
25.....14798
64.....10998
73.....10999, 11000, 11432, 11689, 12465, 12733, 12734, 13323, 13324, 14491, 14646
76.....11000
90.....11689

Proposed Rules:

1.....14683
2.....12792
73.....11058, 11458, 11459, 12793, 12794, 13328, 14553–14555, 14684–14688
80.....11704

48 CFR

Ch. 2.....13048
201.....14988
203.....14988
204.....14988
206.....14988
209.....14988
215.....14988
217.....14988
222.....14988
223.....14988
225.....14988
235.....14988
237.....14988
239.....14988
245.....14988
252.....14988
305.....11689
306.....11689
313.....11689
315.....11689
319.....11689
501.....14648
514.....14648
532.....14648
552.....14648
1602.....14358
1609.....14358
1632.....14358
1652.....14358
9900.....14148
9902.....14148
9903.....14148
9904.....14148

Proposed Rules:

Ch. 5.....12286
31.....11550
42.....11550
225.....11059
231.....11059
242.....11059

49 CFR

383.....13650
571.....13654
Ch. VI.....13657
1011.....13048
1152.....13048

Proposed Rules:

Ch. X.....14688
350.....13572
355.....13572
396.....13572
571.....12286, 12289, 12794
572.....12794
1001.....11652
1035.....13688

50 CFR

17.....13657, 14649, 14782, 14786
227.....14653
301.....12878
380.....13049
630.....14361
642.....11582
646.....11137
663.....11271, 12212, 13661, 14663, 14666
672.....11272, 11274, 11433, 14667, 15031
675.....11433, 12213, 14667, 15031, 15032

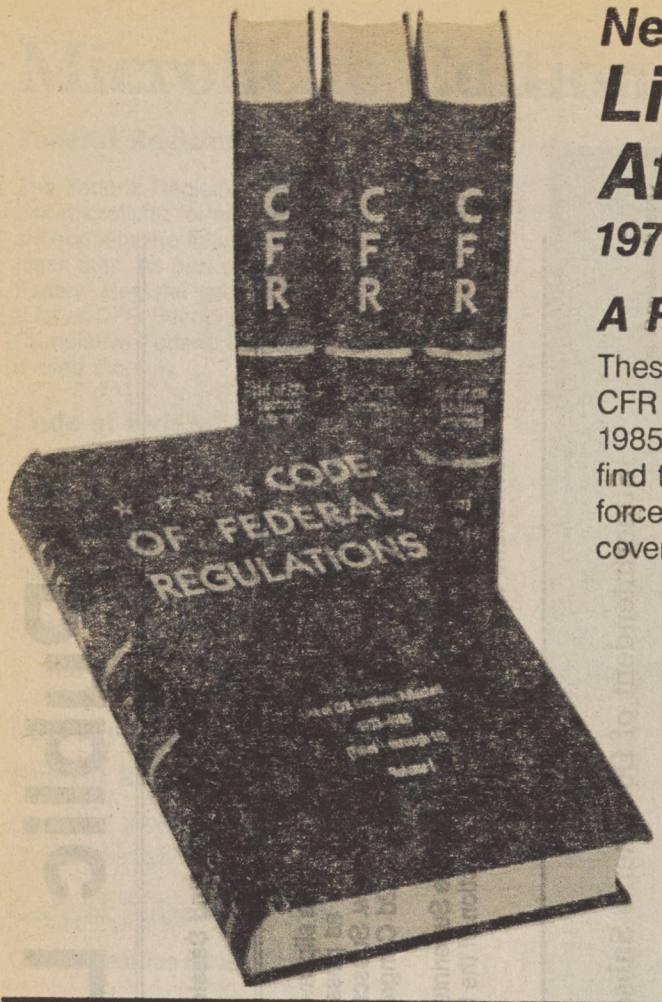
Proposed Rules:

17.....11459, 14372, 14378, 14556, 14689
672.....11930

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List April 23, 1992



New Publication

List of CFR Sections Affected

1973-1985

A Research Guide

These four volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1973 through 1985. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

Volume I (Titles 1 thru 16).....$27.00
Stock Number 069-000-00029-1

Volume II (Titles 17 thru 27).....$25.00
Stock Number 069-000-00030-4

Volume III (Titles 28 thru 41).....$28.00
Stock Number 069-000-00031-2

Volume IV (Titles 42 thru 50).....$25.00
Stock Number 069-000-00032-1

Superintendent of Documents **Publications** Order Form

Order Processing Code:
***6962**

Charge your order. It's easy!

MasterCard VISA

To fax your orders and inquiries–(202) 275-2529

Please Type or Print (Form is aligned for typewriter use.)
Prices include regular domestic postage and handling and are good through 7/91. After this date, please call Order and Information Desk at 202-783-3238 to verify prices. International customers please add 25%.

Qty.	Stock Number	Title	Price Each	Total Price
1	021-602-00001-9	Catalog–Bestselling Government Books	**FREE**	**FREE**
			Total for Publications	

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

( )
(Daytime phone including area code)

Mail To: Superintendent of Documents
Government Printing Office
Washington, DC 20402-9325

Please Choose Method of Payment:

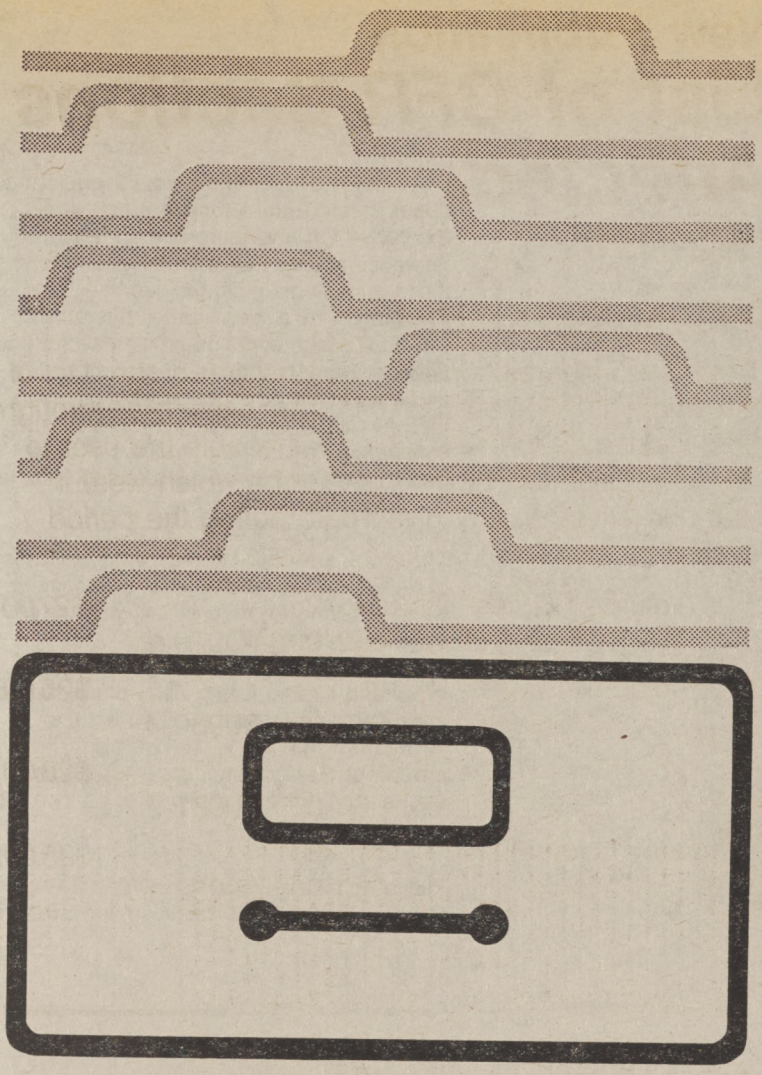
☐ Check payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

(Credit card expiration date)

Thank you for your order!

(Signature)

Rev 1-91



Guide to Record Retention Requirements

in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1989
SUPPLEMENT: Revised January 1, 1991

The GUIDE and the SUPPLEMENT should be used together. This useful reference tool, compiled from agency regulations, is designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

The GUIDE is formatted and numbered to parallel the CODE OF FEDERAL REGULATIONS (CFR) for uniformity of citation and easy reference to the source document.

Compiled by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Publications** Order Form

Order Processing Code:
* 6788

P3

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512-2250

☐ **YES**, please send me the following:

_____copies of the 1989 GUIDE TO RECORD RETENTION REQUIREMENTS IN THE CFR S/N 069-000-00020-7 at $12.00 each.

_____copies of the 1991 SUPPLEMENT TO THE GUIDE, S/N 069-000-00038-0 at $1.50 each.

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

_____
(Company or Personal Name) (Please type or print)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

_____
(Daytime phone including area code)

_____
(Purchase Order No.)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐-☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

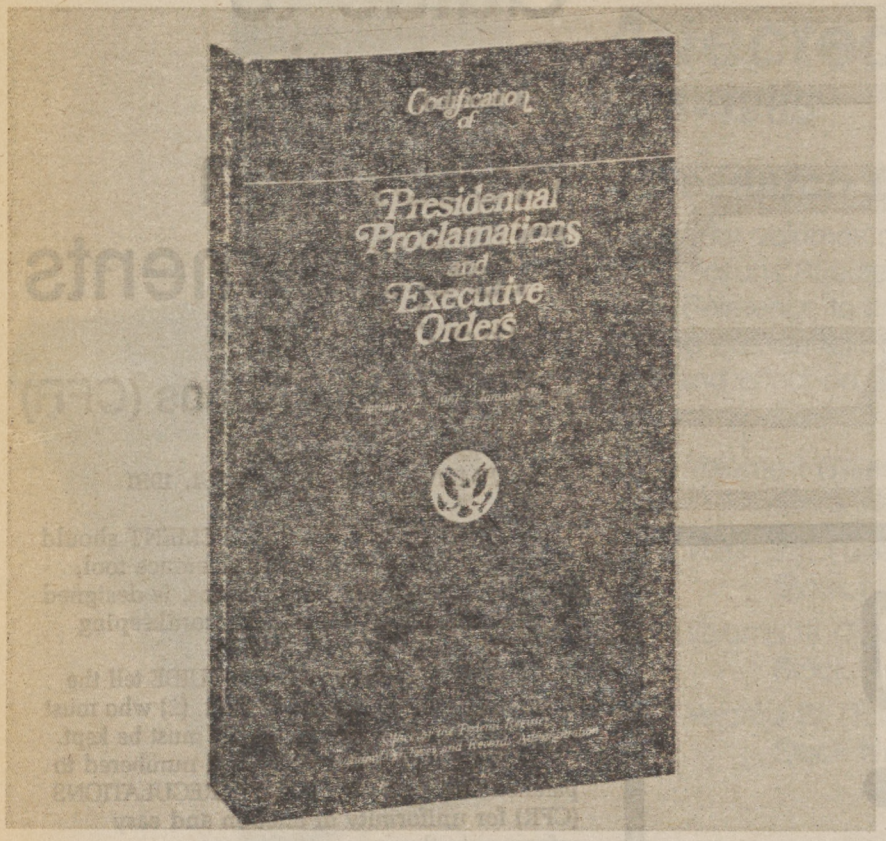
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

_____
(Authorizing Signature) (12/91)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

.... Order now ! , , , ,



For those of you who must keep informed about **Presidential Proclamations and Executive Orders**, there is a convenient reference source that will make researching these documents much easier.

Arranged by subject matter, this edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period April 13, 1945, through January 20, 1989, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1945–1989 period—along with any amendments—an indication of its current status, and, where applicable, its location in this volume.

Published by the Office of the Federal Register, National Archives and Records Administration

---

Superintendent of Documents **Publications** Order Form

P3

Order processing code:
* 6661

Charge your order. It's Easy!

MasterCard VISA

To fax your orders (202)-512-2250

☐ **YES**, please send me the following:

_____ copies of CODIFICATION OF PRESIDENTIAL PROCLAMATIONS AND EXECUTIVE ORDERS.
S/N 069-000-00018-5 at $32.00 each.

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

(Company or Personal Name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

(Daytime phone including area code)

(Purchase Order No.)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐☐-☐

☐ VISA or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

(Authorizing Signature) (12/91)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954